# JOURNAL

OF THE

# HOUSE OF REPRESENTATIVES

OF THE

# COMMONWEALTH OF KENTUCKY

REGULAR SESSION, 1942

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VOLUME III

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### FRIDAY, FEBRUARY 13, 1942

The House was called to order by The Honorable Stanley S. Dickson, Speaker.

The House was opened with prayer by the Reverend A. C. Brooks of the First Christian Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names viz.:

| | | |
|---|---|---|
| George P. Anderson | John Henry Cox | E. R. Hilton |
| Henry Arrowood | Pink G. Curd | Clyde S. Howard |
| Robert E. Barry | Forest C. Easley | Jerry F. Howell |
| Robert E. Beatty | Harry W. Ennis | Chas. O. Humston |
| Rell Bevins | John D. Fields | W. H. Hunt |
| H. M. Brock, Jr. | T. P. Fitzpatrick | Joe B. Jarboe, Jr. |
| Gus A. Brooks | W. W. Freeman | William L. Jones |
| Sherman E. Carter | Joseph J. Grace | John S. Juett |
| C. L. Clayton | P. Bert Hall | W. A. Lamkin |
| T. Fowler Combs | A. G. Hamilton, Jr. | H. W. Linville |
| Oris Cooper | Fuller Harding | A. L. Love |
| M. A. Cornett | Joe Higgins | William Lovett |

Harry K. Lowman
Hugh D. Lyon
H. McCartney
Norris McPherson
Ed. Marcum
C. C. May
J. Milton Mefford
D. J. Moore
J. Lee Moore
L. D. Moore
C. E. Montgomery
F. E. Morancy
E. R. Morlidge
C. Sid Nabb
Coy Nevitt
Robert Nicholas
H. C. Patterson
Paul Pelfrey
Kleber F. Price
James E. Quill
L. Allen Rhoads
Dr. J. J. Rice
Wade H. Riley
Byron H. Royster
Dr. K. N. Salyer
Carl Scheben
Faust Y. Simpson
Otto Smither
Charles L. Spilman
J. Claude Stacy
R. C. Stephenson
Egbert Taylor
Roy L. Taylor
Rev. H. Tinsley
John L. Trumbo
Erna E. Tyra
S. J. Wagner
Harry Walters
H. A. Ward
Henry Ward
H. L. Waterfield
E. Reed Wilson
Stanley S. Dickson, Speaker

The Speaker announced the personnel of the Committee on Rules, as follows, viz.:

Stanley S. Dickson, Chairman
Henry Ward
J. J. Grace
Wayne Freeman
J. Lee Moore
Douglas Bolling
Faust Y. Simpson
Norris McPherson
Robert Barry
Leon Shaikun
Harry Walters
Charles Montgomery
Robert Nicholas
William Lamkin
Thomas Fitzpatrick
Carl Scheben
T. Herbert Tinsley
John Juett
Kleber Price
J. M. Mefford
Dr. M. M. Robinson
Rell Bevins
Henry Arrowood
J. Claude Stacy
Roy L. Taylor
Claude L. Clayton
Cass R. Walden
George P. Anderson

Mr. Henry Ward moved that the House do now recess for thirty minutes.

Said motion was agreed to.

And then the House recessed.

Thirty minutes having expired, the Speaker resumed the Chair and called the House to order.

Mr. Scheben moved that the reading of the Journal of Wednesday's proceedings be dispensed with.

Said motion was agreed to.

Mr. McCartney moved that the Rules of this House be suspended for the purpose of extending privileges of the floor.

Said motion was agreed to.

Thereupon Mr. Royster moved that the privilege of the floor be extended to Mr. Howard Hancock of LaGrange.

Said motion was agreed to.

Mr. Morlidge moved that the privilege of the floor be extended to Mrs. Estelle J. Truesdell and Miss Dorothy Truesdell.

Said motion was agreed to.

Mr. McCartney moved that the privilege of the floor be extended to Messrs. R. O. Bright, Ray Anderson and R. Brownskin.

Said motion was agreed to.

Mr. Hilton moved that the privilege of the floor be extended to Messrs. J. D. Atkinson and John Deitrich and Misses Mable C. Wilson and Juanita Northcutt.

Said motion was agreed to.

Mr. Wagner moved that the privilege of the floor be extended to Judge John L. Cushing and H. F. Schmidt.

Said motion was agreed to.

Mr. Mefford moved that the privilege of the floor be extended to Mr. J. A. McConnell of Knoxville, Tennessee.

Said motion was agreed to.

A message was received from the Senate announcing that they had passed bills which originated in that body, entitled:

S. B. 94. An Act relating to deposits by insurance companies.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

*Section 1.* Section 1 of Chapter 99 of the Acts of 1940, compiled as Section 649a-10 of Baldwin's 1941 Supplement to Carroll's Kentucky Statutes, is amended to read as follows:

DEPOSITS TO PROTECT POLICYHOLDERS: ELIGIBILITY FOR DEPOSIT: AMOUNT. Within ninety days after the net cash value of each policy in force shall be ascertained as now required by law, every Domestic Life Insurance Company shall deposit for the security and benefit of its policyholders, with a custodian of Insurance Securities, appointed in the manner hereinafter set forth, lawful money of the United States and any securities in which Domestic Life Insurance Companies may legally invest their funds, in an amount which together with such sums as may be deposited by said companies with other states and governments by the requirements of the law thereof, shall be not less than the ascertained valuation of all policies in force, less any sums which any Domestic Life Insurance Company shall have advanced from its legal reserve to the policyholders of the company, on the pledge to it of their policies and any accumulations thereon.

Provided, however, that if the legal reserve or the aggregate ascertained valuation of all policies in force in any Domestic Life Insurance Company shall equal twenty million

dollars, then no further deposit shall be required of such company so long as said legal reserve shall remain at or above twenty million dollars, unless said company shall elect to represent on its policies or otherwise that the legal reserve or cash value of its policies thereafter written, is on deposit with the Commonwealth of Kentucky, or one or more of its designated agencies, in which event such company shall deposit securities as above set out in an amount equal to the ascertained valuation of all of its policies in force at the time such representation is made.

Provided, further, that no company shall be required to make the deposit herein required until the net cash value of the policies in force exceeds the amount deposited with the State under the provisions of Kentucky Statutes, Section 648, and then only to the extent of such excess.

*Section 2.* If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall stand repealed as of the effective date of the Kentucky Revised Statutes, and the following shall take effect in lieu thereof:

The deposits required by KRS 297.210 and 297.220 may be in lawful money of the United States, or in the securities described in KRS 296.250 to 296.290, or in satisfactory evidence of the ownership of unencumbered real estate lawfully acquired by the company under KRS 296.250, which real estate shall not be sold or encumbered unless securities or evidence of ownership or other real estate of equal value are deposited with the custodian in lieu thereof. When any mortgage debt is deposited as security, it shall be accompanied by a notice served upon or acknowledged by the mortgagor stating that the debt has been deposited for that purpose.

The provision so substituted by this section shall thereafter be treated as an amendment to KRS 297.230 rather than an amendment to Chapter 99 of the Acts of 1940, and KRS 297.220 shall remain in full force and effect and shall not be treated as affected by this Act.

S. B. 101. An Act authorizing cities of the Fourth and Fifth classes to provide Accident insurance for Volunteer members of their Fire Departments.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That cities of the Fourth and Fifth classes may contract for accident insurance for all designated volunteer members of the Fire departments in such classes of cities for injuries or deaths suffered in performance of duties as such volunteer firemen.

In consideration of the public services of such volunteer firemen, the cities shall be authorized to pay the premiums for such insurance from the city treasury.

Before any governing authority of any city shall enter into any contract authorizing payment of any insurance premiums as provided for herein, the said governing authority shall cause to be posted notices advertising the provisions of the ordinance proposing to authorize payment of such premiums.

Said notices shall be posted in not less than 5 public places within the corporate limits of said town and for not less than 15 days prior to the meeting at which said ordinance is to be considered.

If at the next meeting of the governing authority held after the notices have been posted the required time, a petition signed by not less than 40% of the registered legal voters of said city is filed with the Clerk of said city, no ordinance authorizing payment of such premiums shall be passed and no contract for payment thereof shall be made.

S. B. 95. An Act providing for the enforcement of laws and ordinances relating to hazards or risks insured by fire insurance companies.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 762b-6 of Carroll's Kentucky Statutes is amended to read as follows:

The Division of Insurance, in conjunction with or through public officers upon whom any such duties are imposed, shall enforce all laws and ordinances of the state and its political subdivisions relating to:

(1) The prevention or reduction of loss by fire or by other hazard or risk insured by fire insurance companies doing business in this state, and shall enforce any other regulations or methods adopted for the prevention of loss from such hazards or risks in order to promote the safety of persons.

(2) The manufacture, storage, sale and use of combustibles and explosives.

(3) The installation and maintenance of fire alarm systems and fire extinguishing equipment.

(4) Fire escapes and other means of exit from or access to places in case of fire.

(5) The investigation of the cause, origin and circumstances of fire and the detection and suppression of arson.

Section 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 227.020, and shall thereafter be treated as an amendment to KRS 227.020 rather than an amendment to § 762b-6 of Carroll's Statutes.

S. B. 93. An Act to authorize the Director of Insurance to make reasonable rules and regulations pertaining to the enforcement of the Insurance Laws of Kentucky.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

The Director of Insurance shall have the power and authority to adopt and promulgate reasonable rules and regulations to carry out and effectuate the purposes of the laws governing the insurance business in Kentucky.

S. B. 131. An Act relating to insurance agents.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That Section 762a-14d of Carroll's Kentucky Statutes, 1936 Edition, be amended to read as follows:

The license of an agent for an insurance company doing other than a life business may be revoked or suspended, or application therefor or renewal thereof may be refused, by the Director, if he finds, after due investigation and a hearing as provided in rules and regulations prescribed and promulgated by him, that the holder of the license or the applicant therefor has:

(a) Violated any provision of the insurance law;

(b) Violated any law in the course of his dealings as an agent;

(c) Made a material misstatement in his application for the license;

(d) Been guilty of fraudulent or dishonest practices;

(e) Demonstrated his incompetency or untrustworthiness to transact business as an insurance agent;

(f) Failed or refused, upon demand, to pay over to any company he represents or has represented any money coming into his hands belonging to the company;

(g) Wilfully over-insured any risk in this state;

(h) Wilfully misrepresented any policy of insurance, or wilfully deceived any person with regard to an insurance policy;

(i) Has held or is applying for or is holding such license primarily for the purpose of writing insurance upon risks owned or controlled by him or in which he has an interest or upon which he has a lien of any kind; or owned or controlled by persons, firms or corporations, or in which they or either of them have an interest or upon which they or either of them have a lien of any kind, with whom the applicant is associated, either by way of ownership, employment, or a holding of stock, who writes more than 50% in premium volume of his business covering such risks.

Section 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section 1 of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of subsection 1 of KRS 298.220, and shall thereafter be treated as an amendment to subsection (1) of KRS 298.220 rather than an amendment to Section 762a-14d of Carroll's Statutes.

Ordered that said bills be printed and referred.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 191. An Act providing for the disposition of property where there is no sufficient evidence that persons have died otherwise than simultaneously, and to make uniform the law with reference thereto.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. NO SUFFICIENT EVIDENCE OF SURVIVORSHIP. Where the title to property or the devolution

thereof depends upon priority of death and there is no sufficient evidence that the persons have died otherwise than simultaneously, the property of each person shall be disposed of as if he had survived, except as provided otherwise in this act.

Section 2. BENEFICIARIES OF ANOTHER PERSON'S DISPOSITION OF PROPERTY. Where two or more beneficiaries are designated to take successively by reason of survivorship under another person's disposition of property and there is no sufficient evidence that these beneficiaries have died otherwise than simultaneously the property thus disposed of shall be divided into as many eqaul portions as there are successive beneficiaries and these portions shall be distributed respectively to those who would have taken in the event that each designated beneficiary had survived.

Section 3. JOINT TENANTS OR TENANTS BY THE ENTIRETY. Where there is no sufficient evidence that two joint tenants or tenants by the entirety have died otherwise than simultaneously the property so held shall be distributed one-half as if one had survived and one-half as if the other had survived. If there are more than two joint tenants and all of them have so died the property thus distributed shall be in the proportion that one bears to the whole number of joint tenants.

Section 4. INSURANCE POLICIES. Where the insured and the beneficiary in a policy of life or accident insurance have died and there is no sufficient evidence that they have died otherwise than simultaneously the proceeds of the policy shall be distributed as if the insured had survived the beneficiary.

Section 5. ACT NOT RETROACTIVE. This act shall not apply to the distribution of the property of a person who has died before it takes effect.

Section 6. ACT DOES NOT APPLY IF DECEDENT PROVIDES OTHERWISE. This act shall not apply in the

case of wills, living trusts, deeds, or contracts of insurance wherein provision has been made for distribution of property different from the provisions of this Act.

Section 7. UNIFORMITY OF INTERPRETATION. This act shall be so construed and interpreted as to effectuate its general purpose to make uniform the law in those states which enact it.

Section 8. SHORT TITLE. This act may be cited as the Uniform Simultaneous Death Act.

Section 9. REPEAL. All laws or parts of laws inconsistent with the provisions of this act are hereby repealed.

Section 10. SEVERABILITY. If any of the provisions of this act or the application thereof to any persons or circumstances is held invalid such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are declared to be severable.

Mr. Grace moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | William F. Ball | Rell Bevins |
| George P. Anderson | Robert E. Barry | Gus A. Brooks |
| Henry Arrowood | Robert E. Beatty | Sherman E. Carter |

| | | |
|---|---|---|
| C. L. Clayton | Hugh D. Lyon | Wade H. Riley |
| T. Fowler Combs | H. McCartney | Dr. K. N. Salyer |
| Oris Cooper | Cary McDevitt | Carl Scheben |
| Guthrie F. Crowe | Norris McPherson | Leon J. Shaikun |
| Pink G. Curd | Ed. Marcum | Faust Y. Simpson |
| John D. Fields | C. C. May | Otto Smither |
| T. P. Fitzpatrick | J. Milton Mefford | Charles L. Spilman |
| W. W. Freeman | D. J. Moore | J. Claude Stacy |
| Joseph J. Grace | J. Lee Moore | R. C. Stephenson |
| Bert P. Hall | L. D. Moore | Thomas M. Swope |
| Joe Higgins | C. E. Montgomery | Egbert Taylor |
| E. R. Hilton | F. E. Morancy | Roy L. Taylor |
| Clyde S. Howard | E. R. Morlidge | Rev. H. Tinsley |
| Chas. O. Humston | C. Sid Nabb | John L. Trumbo |
| W. H. Hunt | Coy Nevitt | Erna E. Tyra |
| John S. Juett | Robert Nicholas | S. J. Wagner |
| W. A. Lamkin | Paul Pelfrey | H. A. Ward |
| H. W. Linville | Kleber F. Price | Henry Ward |
| A. L. Love | James E. Quill | E. Reed Wilson |
| William Lovett | L. Allen Rhoads | |
| Harry K. Lowman | Dr. J. J. Rice | —70 |

Resolved that the title thereof be as aforesaid.

Mr. Grace moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 192. An Act for the judicial notice of the laws of other jurisdictions and for proof thereof and to make uniform the law with reference thereto.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. JUDICIAL NOTICE. Every court of this state shall take judicial notice of the common law and statutes of every state, territory and other jurisdiction of the United States.

Section 2. INFORMATION OF THE COURT. The court may inform itself of such laws in such manner as it may deem proper, and the court may call upon counsel to aid it in obtaining such information.

Section 3. RULING REVIEWABLE. The determination of such laws shall be made by the court and not by the jury, and shall be reviewable.

Section 4. EVIDENCE AS TO LAWS OF OTHER JURISDICTIONS. Any party may also present to the trial court any admissible evidence of such laws, but, to enable a party to offer evidence of the law in another jurisdiction or to ask that judicial notice be taken thereof, reasonable notice shall be given to the adverse parties either in the pleadings or otherwise.

Section 5. FOREIGN COUNTRY. The law of a jurisdiction other than those referred to in Section 1 shall be an issue for the court, but shall not be subject to the foregoing provisions concerning judicial notice.

Section 6. INTERPRETATION. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Section 7. SHORT TITLE. This act may be cited as the Uniform Judicial Notice of Foreign Law Act.

Section 8. REPEAL. All acts or parts of act inconsistent with the provisions of this act are hereby repealed, to the extent of such conflict.

Mr. Grace moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | W. H. Hunt | James E. Quill |
| George P. Anderson | John S. Juett | Dr. J. J. Rice |
| Henry Arrowood | W. A. Lamkin | Wade H. Riley |
| William F. Ball | A. L. Love | Dr. K. N. Salyer |
| Robert E. Barry | William Lovett | Carl Scheben |
| Rell Bevins | Harry K. Lowman | Leon J. Shaikun |
| H. M. Brock, Jr. | Hugh D. Lyon | Faust Y. Simpson |
| Sherman E. Carter | Cary McDevitt | Otto Smither |
| C. L. Clayton | Norris McPherson | Charles L. Spilman |
| T. Fowler Combs | Ed. Marcum | J. Claude Stacy |
| John Henry Cox | C. C. May | R. C. Stephenson |
| Guthrie F. Crowe | J. Milton Mefford | Thomas M. Swope |
| Pink G. Curd | D. J. Moore | Egbert Taylor |
| T. P. Fitzpatrick | J. Lee Moore | Roy L. Taylor |
| W. W. Freeman | L. D. Moore | Rev. H. Tinsley |
| Joseph J. Grace | C. E. Montgomery | John L. Trumbo |
| Bert P. Hall | F. E. Morancy | Harry Walters |
| A. G. Hamilton, Jr. | E. R. Morlidge | H. A. Ward |
| Fuller Harding | C. Sid Nabb | Henry Ward |
| Joe Higgins | Robert Nicholas | H. L. Waterfield |
| E. R. Hilton | H. C. Patterson | E. Reed Wilson |
| Clyde S. Howard | Paul Pelfrey | |
| Chas. O. Humston | Kleber F. Price | —67 |

Those who voted in the negative were—

| | | |
|---|---|---|
| Oris Cooper | Coy Nevitt | —2 |

Resolved that the title thereof be as aforesaid.

Mr. Grace moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 152. An Act to amend Section 4081 Carroll's Kentucky Statutes, 1936 Edition.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 4081 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

(1) If the lines or route of a domestic or foreign railway company, gas company, water company, ferry company, bridge company, street railway company, express company, electric light company, electric power company, telephone company, telegraph company, press dispatch company, bus line company, common carrier trucking company, air transport company, palace car company, dining car company, sleeping car company, chair car company, tank car company, coal car company, pipe line company, or other like company or business performing any public service, extend beyond the limits of the state, that proportion of the value of the capital stock which the length of the lines or route operated, owned, leased or controlled in this state bears to the total length of the lines or route operated, owned, leased or controlled in this state and elsewhere shall be considered in fixing the value of the corporate franchise of such corporation liable for taxation in this state.

(2) The corporate franchise shall be liable to taxation in each county, city or district through or into which such lines or route pass or are operated, in the same proportion that the

length of the lines or route in such county, city or district bears to the whole length of lines or routes in this state.

(3) If any such domestic corporation has all of its lines or routes outside of this state, the Department of Revenue shall fix the value of its entire capital stock as hereinbefore provided, and apportion to this state for taxation therein the proper proportion and not less than one percent of its capital stock. The amount so apportioned shall be value of its intangible property, including its corporate franchise, stocks, bonds, securities and choses in action subject to taxation in this state and in the county, city and district where its principal place of business in this state is located.

Section 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, subsection (1) of section 1 of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of subsection (3) of KRS 136.160; subsections (2) and (3) of section 1 of this Act shall be substituted in place of subsections (1) and (2) of KRS 136.170; and this Act shall thereafter be treated as an amendment to KRS 136.160 and 136.170 rather than an amendment to § 4081 of Carroll's Statutes.

Mr. Easley moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | W. H. Hunt | Kleber F. Price |
| Henry Arrowood | John S. Juett | James E. Quill |
| William F. Ball | W. A. Lamkin | L. Allen Rhoads |
| Robert E. Barry | H. W. Linville | Dr. J. J. Rice |
| Robert E. Beatty | A. L. Love | Wade H. Riley |
| Rell Bevins | William Lovett | Dr. K. N. Salyer |
| Sherman E. Carter | Harry K. Lowman | Carl Scheben |
| C. L. Clayton | Hugh D. Lyon | Leon J. Shaikun |
| Oris Cooper | H. McCartney | Faust Y. Simpson |
| John Henry Cox | Norris McPherson | Otto Smither |
| Guthrie F. Crowe | Ed. Marcum | Charles L. Spilman |
| Pink G. Curd | C. C. May | J. Claude Stacy |
| Forest C. Easley | D. J. Moore | R. C. Stephenson |
| T. P. Fitzpatrick | J. Lee Moore | Thomas M. Swope |
| W. W. Freeman | L. D. Moore | Egbert Taylor |
| Joseph J. Grace | C. E. Montgomery | Roy L. Taylor |
| P. Bert Hall | F. E. Morancy | Rev. H. Tinsley |
| A. G. Hamilton, Jr. | E. R. Morlidge | John L. Trumbo |
| Joe Higgins | C. Sid Nabb | Harry Walters |
| E. R. Hilton | Coy Nevitt | H. A. Ward |
| Clyde S. Howard | Robert Nicholas | Henry Ward |
| Chas. O. Humston | H. C. Patterson | E. Reed Wilson |

—66

Resolved that the title thereof be as aforesaid.

Mr. Easley moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 130. An Act to amend Section 4281g-14 and repeal section 4281g-7 of Carroll's Kentucky Statutes, 1936 Edition.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That section 4281g-14 of Carroll's Kentucky Statutes, 1936 edition, be amended so that when amended it shall read as follows:

Statistics of taxpaid gasoline gallonage reported monthly to the Department of Revenue by any licensee under the gasoline excise tax law may be made public by the department.

§ 2. Section 4281g-7 of Carroll's Kentucky Statutes, 1936 edition, is repealed.

§ 3. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, become and be considered to be subsection (3) of KRS 131.190, and shall thereafter be treated as an amendment to KRS 131.190 rather than an amendment to § 4281g-14 of Carroll's Statutes, and paragraph (a) of subsection (1) of KRS 138.240 shall stand repealed.

Mr. J. Claude Stacey moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | William L. Jones | H. C. Patterson |
| George P. Anderson | John S. Juett | Paul Pelfrey |
| Henry Arrowood | W. A. Lamkin | Kleber F. Price |
| William F. Ball | H. W. Linville | L. Allen Rhoads |
| Rell Bevins | A. L. Love | Dr. J. J. Rice |
| H. M. Brock, Jr. | William Lovett | Wade H. Riley |
| Sherman E. Carter | Harry K. Lowman | Byron H. Royster |
| C. L. Clayton | Hugh D. Lyon | Dr. K. N. Salyer |
| T. Fowler Combs | H. McCartney | Carl Scheben |
| John Henry Cox | Cary McDevitt | Leon J. Shaikun |
| Guthrie F. Crowe | Norris McPherson | Faust Y. Simpson |
| Pink G. Curd | Ed. Marcum | Otto Smither |
| Forest C. Easley | C. C. May | Charles L. Spilman |
| John D. Fields | J. Milton Mefford | J. Claude Stacy |
| T. P. Fitzpatrick | D. J. Moore | R. C. Stephenson |
| W. W. Freeman | J. Lee Moore | Egbert Taylor |
| Joseph J. Grace | L. D. Moore | Roy L. Taylor |
| Bert P. Hall | C. E. Montgomery | John L. Trumbo |
| A. G. Hamilton, Jr. | F. E. Morancy | Harry Walters |
| Joe Higgins | E. R. Morlidge | H. A. Ward |
| E. R. Hilton | C. Sid Nabb | Henry Ward |
| Clyde S. Howard | Coy Nevitt | H. L. Waterfield |
| W. H. Hunt | Robert Nicholas | E. Reed Wilson |

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Resolved that the title thereof be as aforesaid.

Mr. J. Claude Stacey moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 211. An Act to create the office of assistant county attorney in counties having a population of less than one

hundred and fifty thousand; to provide for his appointment by the county attorney; to fix his qualifications and term; to define his powers and duties; to provide for his compensation; to repeal section 131 of Carroll's Kentucky Statutes, 1936 edition; and declaring an emergency to exist.

Said bill is as follows, viz.:

WHEREAS duly elected and qualied county attorneys of several counties in Kentucky are now absent in the military service of the United States of America, and others may be inducted into said service at any time, and suitable and proper legislation providing for the exercise of their powers and discharge of their duties should be enacted:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. The office of assistant county attorney in counties having a population of less than one hundred and fifty thousand is hereby created.

§ 2. The assistant county attorney shall be appointed by the county attorney for the duration or unexpired part of his term, but shall be subject to removal at any time by the county attorney.

§ 3. The assistant county attorney shall possess the qualifications of a county attorney, and during the absence from the county of the county attorney or his inability to attend shall act as county attorney and have the same powers and perform all the duties now or hereafter imposed on county attorneys by law, and while so acting shall be paid and receive the fees and commissions that the county attorney would have received if present and acting, the county attorney to continue to receive the salary fixed by the fiscal court.

§ 4. Section 131 of Carroll's Kentucky Statutes, 1936 edition, is hereby repealed.

§ 5. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, this Act shall be

treated as repealing KRS 69.270, regardless of the date of enactment or taking effect of the Kentucky Revised Statutes.

§ 6. Inasmuch as several county attorneys are now absent in the military service of the United States of America and there is now no suitable or proper provision for the discharge of the duties of said absentees during their absence, an emergency is declared to exist, and this Act shall take effect and be in force from and after its passage and approval by the Governor.

Mr. Love moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | John Henry Cox | W. H. Hunt |
| George P. Anderson | Guthrie F. Crowe | William L. Jones |
| Henry Arrowood | Pink G. Curd | John S. Juett |
| William F. Ball | Forest C. Easley | W. A. Lamkin |
| Robert E. Beatty | John D. Fields | H. W. Linville |
| Rell Bevins | T. P. Fitzpatrick | A. L. Love |
| H. M. Brock, Jr. | W. W. Freeman | William Lovett |
| Gus A. Brooks | Joseph J. Grace | Harry K. Lowman |
| Sherman E. Carter | E. R. Hilton | Hugh D. Lyon |
| C. L. Clayton | Clyde S. Howard | H. McCartney |
| T. Fowler Combs | Jerry F. Howell | Cary McDevitt |
| Oris Cooper | Chas. O. Humston | Norris McPherson |

| | | |
|---|---|---|
| Ed. Marcum | H. C. Patterson | R. C. Stephenson |
| C. C. May | Kleber F. Price | Thomas M. Swope |
| J. Milton Mefford | James E. Quill | Egbert Taylor |
| D. J. Moore | L. Allen Rhoads | Roy L. Taylor |
| J. Lee Moore | Dr. J. J. Rice | Rev. H. Tinsley |
| L. D. Moore | Wade H. Riley | John L. Trumbo |
| C. E. Montgomery | Byron H. Royster | Erna E. Tyra |
| F. E. Morancy | Dr. K. N. Salyer | Harry Walters |
| E. R. Morlidge | Carl Scheben | H. A. Ward |
| C. Sid Nabb | Leon J. Shaikun | Henry Ward |
| Coy Nevitt | Faust Y. Simpson | H. L. Waterfield |
| Robert Nicholas | Charles L. Spilman | E. Reed Wilson |

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Resolved that the title thereof be as aforesaid.

Mr. Love moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 161. An Act adopting and putting into effect daylight saving time throughout the Commonwealth of Kentucky by advancing standard time one hour to run contemporaneously and for a period of time provided by the Federal Daylight Saving Act, and declaring an emergency.

Said bill is as follows, viz.:

WHEREAS, the National Government has adopted daylight saving time in regard to interstate commerce and Federal offices, agencies and works throughout the United States and,

WHEREAS, it is desirable to avoid confusion and conflict that this Commonwealth and its subdivisions and agencies in its various transactions be in accord with the Federal Government in this matter.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That the standard time as heretofore fixed and existing in the United States pursuant to Act of Congress and prior to the recent adoption of daylight saving time during the period of the National emergency be advanced by one hour, which time so advanced shall apply to and govern all laws, regulations and rules relating to the time or performance of any act by any officer or department of the Commonwealth, or of any county, city or subdivision or agency thereof, or relating to the time that any right shall accrue or determine, or within which any act shall or shall not be performed by any person subject to the jurisdiction of the Commonwealth, and in all the public schools and institutions of the Commonwealth and on the public works of the Commonwealth or any county, city or district thereof, or in all contracts or choses in action made or to be performed in the Commonwealth.

That said time adopted above shall continue so long as the Federal Government continues its adoption of the change of time and shall cease when the Federal Government abandons and discontinues the use of daylight saving time and reverts to standard time and so promulgates.

That there is present passing necessity of putting into effect this change of time to conform with the Federal Government and an emergency is now declared and this Act shall go into effect at midnight following its final passage and approval by the Governor.

Mr. Henry Ward moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Joe B. Jarboe, Jr. | Kleber F. Price |
| Henry Arrowood | William L. Jones | James E. Quill |
| William F. Ball | John S. Juett | L. Allen Rhoads |
| Robert E. Barry | W. A. Lamkin | Dr. J. J. Rice |
| Robert E. Beatty | H. W. Linville | Wade H. Riley |
| Rell Bevins | A. L. Love | Byron H. Royster |
| H. M. Brock, Jr. | William Lovett | Dr. K. N. Salyer |
| Gus A. Brooks | Harry K. Lowman | Carl Scheben |
| Sherman E. Carter | Hugh D. Lyon | Leon J. Shaikun |
| C. L. Clayton | H. McCartney | Faust Y. Simpson |
| T. Fowler Combs | Cary McDevitt | Otto Smither |
| Oris Cooper | Norris McPherson | Charles L. Spilman |
| John Henry Cox | Ed. Marcum | J. Claude Stacy |
| Guthrie F. Crowe | C. C. May | R. C. Stephenson |
| Pink G. Curd | J. Milton Mefford | Thomas M. Swope |
| Forest C. Easley | D. J. Moore | Egbert Taylor |
| John D. Fields | J. Lee Moore | Roy L. Taylor |
| T. P. Fitzpatrick | L. D. Moore | Rev. H. Tinsley |
| W. W. Freeman | C. E. Montgomery | John L. Trumbo |
| Joseph J. Grace | F. E. Morancy | S. J. Wagner |
| P. Bert Hall | E. R. Morlidge | H. A. Ward |
| A. G. Hamilton, Jr. | C. Sid Nabb | Henry Ward |
| E. R. Hilton | Coy Nevitt | H. L. Waterfield |
| Jerry F. Howell | Robert Nicholas | E. Reed Wilson |
| Chas. O. Humston | H. C. Patterson | |
| W. H. Hunt | Paul Pelfrey | —76 |

There voted in the negative—

Erna E. Tyra —1

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 151. An Act pertaining to the use of police radios and providing who may and may not use and have in their possession radio equipment capable of receiving or sending or interfering with police radio messages and declaring a violation of this act to be a misdemeanor and providing a penalty therefor including the escheat, forfeiture and destruction of any equipment had or used in violation of this act.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

It shall be unlawful for any person except a peace officer duly authorized to make arrests, and also holding either a first, second or third class radio operator's license duly issued by the Federal Communications Commission, or a member of a police department or police force which regularly maintains a police radio system authorized or licensed by the Federal Communications Commission, to have in his or her possession, or in an automobile or other vehicle, or to equip or install in or on any automobile or other vehicle, any mobile radio set or apparatus capable of either receiving or transmitting radio or other messages or signals within the wave length or channel now or which may hereafter be allocated by the Federal Communications Commission, or its successor, for the purpose of police radios, or which may, in any way intercept or interfere with the transmission of radio messages by any

police or other peace officers, and it shall be unlawful for any car, automobile or other vehicle other than one publicly owned and entitled to and bearing an official license plate issued by the state issuing a license for said car, to have, or be equipped with such sets or apparatus even though said car is owned by an officer.

Any person guilty of violating any of the provisions of this act shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than Fifty Dollars ($50.00) and not exceeding Five Hundred Dollars ($500.00), or imprisonment not exceeding twelve (12) months, or both so fined and imprisoned.

It shall be the duty of any and all peace officers to seize and hold for evidence any and all equipment had or used in violation of the provisions of this act, and, upon conviction of the person having, equipping or using such equipment, it shall be the duty of the Trial Court to order such equipment or apparatus destroyed, forfeited or escheated to the Commonwealth of Kentucky, or to any county, city or town within which such Court sits or holds its sessions and said property may be ordered destroyed, forfeited or escheated as above provided without a conviction of the person charged with violating this act.

Mr. McPherson moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | William L. Jones | B. W. Porter |
| George P. Anderson | John S. Juett | Kleber F. Price |
| Henry Arrowood | W. A. Lamkin | L. Allen Rhoads |
| William F. Ball | H. W. Linville | Dr. J. J. Rice |
| Robert E. Beatty | A. L. Love | Wade H. Riley |
| Sherman E. Carter | William Lovett | Byron H. Royster |
| T. Fowler Combs | Hugh D. Lyon | Dr. K. N. Salyer |
| Oris Cooper | H. McCartney | Carl Scheben |
| John Henry Cox | Cary McDevitt | Leon J. Shaikun |
| Guthrie F. Crowe | Norris McPherson | Otto Smither |
| Pink G. Curd | Ed. Marcum | Charles L. Spilman |
| Forest C. Easley | C. C. May | J. Claude Stacy |
| John D. Fields | J. Milton Mefford | R. C. Stephenson |
| T. P. Fitzpatrick | D. J. Moore | Thomas M. Swope |
| W. W. Freeman | J. Lee Moore | Roy L. Taylor |
| Joseph J. Grace | L. D. Moore | Rev. H. Tinsley |
| P. Bert Hall | C. E. Montgomery | John L. Trumbo |
| A. G. Hamilton, Jr. | F. E. Morancy | Harry Walters |
| E. R. Hilton | E. R. Morlidge | H. A. Ward |
| Clyde S. Howard | C. Sid Nabb | Henry Ward |
| Jerry F. Howell | Coy Nevitt | H. L. Waterfield |
| Chas. O. Humston | Robert Nicholas | E. Reed Wilson |
| W. H. Hunt | H. C. Patterson | |
| Joe B. Jarboe, Jr. | Paul Pelfrey | —70 |

Resolved that the title thereof be as aforesaid.

Mr. McPherson moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

S. B. 38. An Act providing that indexes to county records, which have been prepared by the Works Projects Administration or other appropriate federal agency, may be adopted by the county courts as the official indexes to the county records; providing the procedure by which said indexes may be so adopted; prescribing the duties of the county court clerks with reference thereto; and declaring that an emergency exists and that this act shall become effective immediately.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. In any county where indexes to the records of deeds, mortgages, wills, marriages, or other public records have been or may hereafter be prepared by the Works Projects Administration or other appropriate agency of the United States government, such indexes, or any of them may be adopted as the official general cross indexes of such records in the manner provided by this section in addition to each individual book index. Upon the completion of any such indexing project by the said Works Projects Administration or other agency, or at any time thereafter, any citizen of the county may petition the county court to have said index adopted as the official index. Upon the filing of the petition, the court may forthwith by appropriate order designate a licensed attorney practicing in the county who with the county attorney and county court clerk shall comprise a commission to examine the index proposed to be adopted and ascertain whether the index is a complete and accurate index of the records to which it pertains. The commission shall thereupon make such examinations as may be necessary to ascertain to its satisfaction whether such index is complete and accurate. Upon completion of such examination, the commission shall make a written report to the court of the

results thereof and of its recommendations, which report shall lie over for exceptions until the second regular term of the county court thereafter held. Notice of the filing of said report shall be given by the clerk by publication in at least two issues of a daily newspaper published in said county, or if there be no daily newspaper, in a weekly newspaper, or if there be no weekly newspaper, by written or printed notices posted at the courthouse door and in the county court clerk's office. Exceptions may be filed by any interested person, and if filed shall be heard and determined as in other cases. If no exceptions are filed thereto, or upon the exceptions (if any) the court shall hear such proof as may be thought proper respecting the report filed by the clerk and the exceptions, and shall judicially determine whether the said index is complete and accurate, and if it is determined that the index is complete and accurate, an order shall be entered adopting said index; provided, that if from such report or such proof it appears that corrections or additions should be made to such index in order to render it accurate and complete, the order may direct that such corrections or additions shall be made by the clerk, and in that event it shall be the duty of the clerk to make such corrections or additions forthwith, and upon his report that he has done so an order shall be entered adopting the index as so corrected. If adopted, said index shall thereupon become the official general cross index of the records to which it pertains, and all persons shall be entitled to rely thereon to the same extent as if the index had been prepared by the clerk of the county court. Upon the adoption of any such index, it shall be the duty of the clerk to bring same up to date from the point at which same ceased to be made by the federal agency which prepared it, and to continue and maintain said index thereafter in lieu of the indexing system theretofore used, except he will continue to keep the regular individual book book index, and to index all instruments lodged for record in conformity therewith. The indexes theretofore used shall not be destroyed after the adoption of the new indexes, but shall

be safely kept by the clerk as other records are kept, subject to inspection by any person interested therein.

SECTION 2. Expenses incurred by the county clerk under the provisions of this act shall be paid by the fiscal court of the county.

SECTION 3. By reason of the fact that in several of the counties of this Commonwealth indexes have been prepared which are suitable for adoption under the foregoing section, an emergency is declared to exist with respect thereto, and this act shall therefore become effective immediately.

Mr. Henry Ward moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Guthrie F. Crowe | Chas. O. Humston |
| George P. Anderson | Pink G. Curd | W. H. Hunt |
| Henry Arrowood | John D. Fields | Joe B. Jarboe, Jr. |
| William F. Ball | T. P. Fitzpatrick | William L. Jones |
| Robert E. Barry | W. W. Freeman | John S. Juett |
| Robert E. Beatty | Joseph J. Grace | W. A. Lamkin |
| Rell Bevins | P. Bert Hall | H. W. Linville |
| H. M. Brock, Jr. | A. G. Hamilton, Jr. | A. L. Love |
| Sherman E. Carter | E. R. Hilton | William Lovett |
| T. Fowler Combs | Clyde S. Howard | Harry K. Lowman |
| John Henry Cox | Jerry F. Howell | Hugh D. Lyon |

| | | |
|---|---|---|
| H. McCartney | Robert Nicholas | J. Claude Stacy |
| Cary McDevitt | H. C. Patterson | R. C. Stephenson |
| Norris McPherson | Paul Pelfrey | Thomas M. Swope |
| Ed. Marcum | Kleber F. Price | Roy L. Taylor |
| C. C. May | Dr. J. J. Rice | John L. Trumbo |
| J. Milton Mefford | Wade H. Riley | Erna E. Tyra |
| D. J. Moore | Byron H. Royster | S. J. Wagner |
| J. Lee Moore | Dr. K. N. Salyer | Harry Walters |
| L. D. Moore | Carl Scheben | H. A. Ward |
| C. E. Montgomery | Leon J. Shaikun | Henry Ward |
| F. E. Morancy | Faust Y Simpson | H. L. Waterfield |
| E. R. Morlidge | Otto Smither | E. Reed Wilson |

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There voted in the negative—

Coy Nevitt —1

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Henry Ward of the Committee on Rules to which the same had been referred, reported bills of the following titles, viz.:

H. B. 292. An Act relating to the purchase or sale of any property, real, personal or mixed, etc.

H. B. 285. An Act relating to permits to erect or maintain poles, lines, wires, pipe lines or other equipment on the rights of way.

H. B. 269. An Act making provision for a Statute Revision Commission.

H. B. 270. An Act relating to the preparation and printing of the Journal and Acts of the present session of the General Assembly.

H. B. 271. An Act revising the Kentucky Statutes.

H. B. 253. An Act relating to elections with particular relation to voting machines.

H. B. 236. An Act relating to probation and parole.

H. B. 309. An Act to authorize the creation and establishment of County Housing Commissions.

H. B. 310. An Act to declare valid and legal the creation of Municipal Housing Commissions.

H. B. 311. An Act to authorize Housing Commissions, and any cities creating them to undertake the development of administration of project to assure the availability of sale and sanitary dwellings.

H. B. 312. An Act authorizing cities to adopt ordinances relating to the repair, closing and demolition of dwellings unfit for human habitation.

S. B. 4. An Act providing for the consolidation of counties.

S. B. 17. An Act relating to state warrants.

S. B. 88. An Act requiring instruction in the public schools and colleges as to the effect of alcoholic liquors on the human system.

S. B. 89. An Act relating to old age Assistance.

S. B. 90. An Act creating a primary road in Grayson county.

S. B. 93. An Act to authorize the Director of Insurance to make reasonable rules and regulations pertaining to the enforcement of the Insurance Laws of Kentucky.

S. B. 94. An Act relating to deposits by insurance companies.

S. B. 95. An Act providing for the enforcement of laws and ordinances relating to hazards or risks insured by fire insurance companies.

S. B. 96. An Act authorizing counties, municipalities and other taxing districts to invest their sinking funds in Defense Bonds.

S. B. 131. An Act relating to insurance Agents.

With the expression of opinion that said bills ought to pass.

Said bills were each and severally read at length the first time and ordered to be placed on the Calendar.

The House took up for consideration from the Calendar, bills of the following titles, viz.:

H. Res. 6. Resolution authorizing Willie Whitt to sue the Commonwealth.

H. Res. 8. Resolution authorizing Charles B. Christian to sue the Commonwealth.

H. Res. 11. Resolution authorizing Robert Gore to sue the Commonwealth.

H. Res. 12. Resolution authorizing Carl Giles to sue the Commonwealth.

H. Res. 20. Resolution authorizing Charles Duncan to sue the Commonwealth.

H. Res. 21. Resolution authorizing Joseph S. Chamberlain to sue the Commonwealth.

H. Res. 57. Resolution authorizing Ruth King to sue the Commonwealth.

H. Res. 58. Resolution authorizing Carl Tracy to sue the Commonwealth.

H. Res. 59. Resolution authorizing personal representative of William Flannery to sue the Commonwealth.

With a Committee amendment thereto.

H. Res. 5. Resolution authorizing Louis Graham to sue the Commonwealth.

With a Committee amendment thereto.

H. B. 242. An Act relating to hospitals and clinics.

H. B. 123. An Act to control and prevent the spread of infectious and communicable diseases among livestock.

S. B. 85. An Act relating to commissioners of the Court of Appeals.

H. B. 54. An Act relating to Workmen's Compensation.

With a Committee amendment thereto.

H. B. 218. An Act relating to quarterly courts.

H. B. 234. An Act relating to salary of district detective to Commonwealth's Attorney.

H. B. 23. An Act conferring on the counties of the Commonwealth of Kentucky the power to enact zoning regulations.

H. B. 85. An Act to regulate and control the milk industry.

Ordered that said bills be read the second time.

The Constitutional provision as to the second reading of said bills at length being dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day.

At the instance of the Committee on Rules, the following bills and resolution were introduced, viz.:

By Mr. Arrowood.

H. B. 313. An Act relating to revenue and taxation, imposing an excise tax on the gross receipts of certain persons, firms, corporations, associations, co-partnerships and other forms of business organizations engaged in selling at retail certain types of personal property; providing for the enforcement of said Act, the collection and distribution of the revenue arising therefrom and repealing all conflicting laws.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. This Act shall be known and may be cited as the Gross Receipts Tax Law of 1942 for Old Age Assistance.

§ 2. The term "merchant" is hereby defined for purposes of this Act as a person regularly engaged in the vending of tangible personal property.

The term "person" is hereby defined for purposes of this Act as including any individual, copartnership, association, corporation, trust or other form of business organization, regardless of whether or not enumerated here and regardless of whether or not similar to those enumerated. Two or more business organizations held by majority stock ownership or ultimately controlled or directed by one management or association shall be construed for purposes of this act as one person.

The term "sales at retail" is hereby defined for the purposes of this Act as sales of tangible personal property not intended for resale. The term, however, does not include casual sales by a person not regularly engaged in making sales, sales of material which enters into and becomes a part of a finished product to be offered for sale, including the container in which such product is sold; sales by farmers of commodities which they or their tenants or employes have produced on their farms, sales of corn meal, wheat flour, bread, beans for table use and potatoes; sales of coal by producers in quantities of not less than forty tons; sales of newspapers or of space therein; retail sales of gasoline, motor vehicle fuel, motor vehicles, alcoholic beverages, cigarettes, electric current, water, artificial or natural gas, or sales of time on the air by radio broadcasting stations.

The term "gross receipts" when applied to merchants making sales at retail shall be construed to mean the amount received in money, credits, property, or other money's worth, regardless of whether or not the form thereof be enumerated herein, in consideration of sales at retail within this state; provided that in case of sales on open account or note the consideration shall only be deemed to be gross receipts when payments on such accounts or notes shall be made in cash, property, or other money's worth, regardless of whether or not the form be enumerated in this paragraph; provided further that credits for returned or defective goods and cash discounts allowed and taken on sales shall not be included as gross receipts, or if included and later allowed or credited, may be deducted from gross receipts in the month in which allowed or credited. Gross receipts, as thus defined, shall be deemed to include receipts by a merchant operating a place of business or store, irrespective of whether or not the amounts he received for sales made at the store; and receipts by merchants operating wagons or trucks or any other conveyance from which tangible personal property is sold and delivered, and receipts from goods and wares sold by sample

and later delivered and from the sale of other commodities not at the place of business or store, regardless of whether or not mentioned here and whether or not similar to these, shall be included.

The term "retailer" is hereby defined for purposes of this Act as a person making sales at retail.

The term "manufacturer" is hereby defined as a person engaged in manufacturing (as the term is used in Carroll's Kentucky Statutes, 1936 Edition, Section 4019a-10).

The term "jobber" is hereby defined for the purpose of this Act as one, not a manufacturer, regularly engaged in making sales of personal property intended for resale.

The term "Department" is to be construed for purposes of this Act as meaning the Department of Revenue.

The term "store" is hereby defined for purposes of this Act as a building, room or place in or at which tangible personal property is kept for sale, or from or at which such property is sold.

§ 3. An excise tax is hereby imposed on the sale of tangible personal property at retail by merchants, equal to two per centum of the aggregate gross receipts from the sale of tangible personal property by each merchant made after this Act becomes effective and every merchant engaged in the sale of tangible personal property at retail is required to collect the tax from the purchaser and account to the State of Kentucky for such tax in the manner provided in this Act.

§ 4. Every charitable and educational institution in the State of Kentucky and subdivisions thereof when engaged in activities made taxable by this Act shall be completely exempt from its provisions.

§ 5. It is hereby declared to be the Legislative intent that the gross receipts of every person engaged in the various business enterprises designated in this Act shall be made taxable under this Act. The Department shall prescribe appropriate rules and regulations to make this section effective.

§ 6. The Department shall promulgate rules and regulations for the various classes of businesses and enterprises whose gross receipts are made taxable by this Act which rules and regulations shall set forth the manner whereby the taxes shall be added to the retail price of the various articles or commodities, and for the purpose of auditing the Department may require the keeping and filing of sales tickets showing the amount of the tax added to the sales of said articles or commodities.

§ 7. Every person operating a business made taxable under the provisions of this Act on gross receipts shall on or before the 15th day of the month succeeding the month on which this Act becomes a law file with the Department an application for a license containing the person's name, the address or addresses of his place or places of business and such additional data as the Department may require. Upon filing said name, address and additional data the Department shall issue a license to do business in Kentucky. No person shall engage in or continue a business made taxable under the provisions of this Act on gross receipts without obtaining and continually displaying prominently in or at said person's place of business the license herein authorized to be issued by the Department. In case of a person having more than one place of business or store, the Department shall issue a sufficient number of copies of the license so that one may be displayed in each place of business operated by such person.

§ 8. The administration of this Act is vested in the Department which may prescribe forms and promulgate rules and regulations needed for the enforcement of this Act.

The Department shall keep a suitable record of all taxes collected under this Act, which record shall include preservation of the original returns by taxpayers for a period of not less than three (3) years.

§ 9. Every person operating a business made taxable under this Act on the gross receipts is hereby required to

preserve a written record of daily gross receipts, to maintain a file of invoices of goods received for sale, and to keep such other records as the Department may require to facilitate enforcement of this Act. On or before the 15th day of each month, beginning with the month after which this bill becomes a law, each retailer and each person operating any other business made taxable under the provisions of this Act shall mail to, or file with the Department a verified written report of total gross receipts made during the preceeding month, and shall remit with said report the amount of tax due under Section three of this Act; provided, however, that the Department on the basis of information herein authorized to be secured, or on the basis of an audit of the return may require additional payments if found to be due.

§ 10. No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by this Act. The aggrieved taxpayer shall pay the tax as and when required, and may at any time within two (2) years from the date of such payment sue the Commonwealth, through its agent, the Department of Finance, in an action at law in any court, State or Federal, otherwise having jurisdiction of the parties and subject matter, for the recovery of the tax paid, with legal interest thereon from the date of payment. If it is finally determined that said tax or any part thereof was wrongfully collected for any reason, it shall be the duty of the Department of Finance to issue its warrant on the Treasurer of the Commonwealth of Kentucky for the amount of such tax so adjudged to have been wrongfully collected together with legal interest thereon. The Treasurer shall pay the same at once out of the general expenditure fund of the state in preference to other warrants or claims against the Commonwealth. A separate suit need not be filed for each individual payment made by any taxpayer, but a recovery may be had in one suit for as many payments as may have been made.

§ 11. If gross receipts made taxable by this Act are received under such circumstances that the Constitution and laws of the United States, or the Constitution of Kentucky, preclude imposition of the tax, then said tax shall not apply.

§ 12. Any person who shall violate any of the provisions of this Act for which a specific penalty is not herein provided shall be deemed guilty of a misdemeanor and punished by a fine of not less than five dollars ($5.00) nor more than five hundred dollars ($500.00) for each offense.

Any person, required under this Act to make returns and pay a tax, who shall fail to pay the tax due in the time specified in this Act, shall be subject to a penalty equal to twenty (20) per centum of the amount of tax due and delinquent and in addition thereto interest at six (6%) per centum per annum.

§ 13. The aggregate of the total of the revenue collected from the operation of this Act shall be covered through the Department of Finance into the State Treasury, and the entire proceeds thereof shall be for use in payment of the Old Age Assistance, in an effort to bring to thirty dollars ($30.00) the monthly payments of persons now eligible and those who shall hereafter become eligible under the laws to receive Old Age Assistance.

§ 14. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, the number "KRS 132.200" shall be substituted for "Carroll's Kentucky Statutes, 1936 Edition, Section 4019a-10" in section 2 of this Act.

By Mr. Roy L. Taylor.

H. B. 314. An Act relating to elections with particular reference to political parties.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

No organization shall be deemed a political party, nor shall it be entitled to the rights and privileges of a political party under the election laws if its members are directly or indirectly affiliated by any means whatsoever with the Communist Party of the United States, third communistic internationale, or any other foreign agency, political party, organization or government which either directly or indirectly carries on, advocates, teaches, justifies, aids or abets the overthrow by any unlawful means, or which directly or indirectly carries on, advocates, teaches, justifies, aids or abets a program of sabotage, force and violence, sedition or treason against, the Government of the United States or of this State, and no branch or affiliate of any foreign organization shall be recognized as a legal political party or shall have any place on the ballot in any election. No newly organized political party shall be permitted on or to have the names of its candidates printed on the ballot used at any election until it has filed an affidavit by its officers, under oath, that it does not advocate the overthrow of local, State or National Government by force or violence, and that it is not affiliated in any way with any political party or organization, or subdivision of any organization which does advocate such a policy by radio, speech or press.

By Mr. J. Lee Moore.

H. B. 315. An Act relating to narcotic drugs.

Said bill is as follows, viz.:

WHEREAS, the Federal Bureau of Narcotics has recommended the following amendments to the Uniform Narcotic Drug Act and it is the desire of the General Assembly to cooperate with the Bureau of Narcotics and to keep the Act uniform; now, therefore:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 3716-8 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

*Preparations exempted.* Except as otherwise in this Act specifically provided, this Act shall not apply to the following cases:

(1) Administering, dispensing, or selling at retail of any medicinal preparation that contains in one fluid ounce, or if a solid or semi-solid preparation, in one avoirdupois ounce, not more than one grain of codeine or of any of its salts.

(2) The exemption authorized by this section shall be subject to the following conditions (a) that the medicinal preparation administered, dispensed, or sold, shall contain, in addition to the narcotic drugs in it, some drug or drugs conferring upon it medicinal qualities other than those possessed by the narcotic drug alone; and (b) that such preparation shall be administered, dispensed, and sold in good faith as a medicine, and not for the purpose of evading the provisions of this Act.

(3) Nothing in this section shall be construed to limit the quantity of codeine or of any of its salts that may be prescribed, administered, dispensed, or sold, to any person or for the use of any person or animal, when it is prescribed, administered, dispensed, or sold, in compliance with the general provisions of this Act.

§ 2. Subsection (5) of section 3716-9 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

The form of records shall be prescribed by the State Board of Health. The record of narcotic drugs received shall in every case show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received; the kind and quantity of narcotic

drugs produced or removed from process of manufacture, and the date of such production or removal from process of manufacture; and the record shall in every case show the proportion of morphine, cocaine, or ecgonine contained in or producible from crude opium or coca leaves received or produced and the proportion of resin contained in or producible from the plant Cannabis Sativa L. The record of all narcotic drugs sold, administered, dispensed, or otherwise disposed of, shall show the date of selling, administering, or dispensing, the name and address of the person to whom, or for whose use, or the owner and species of animal for which the drugs were sold, administered or dispensed, and the kind and quantity of drugs. Every such record shall be kept for a period of two years from the date of the transaction recorded. The keeping of a record required by or under the Federal Narcotic Laws, containing substantially the same information as is specified above, shall constitute compliance with this section, except that every such record shall contain a detailed list of narcotic drugs lost, destroyed, or stolen, if any, the kind and quantity of such drugs, and the date of the discovery of such loss, destruction, or theft.

§ 3. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 218.080, and thereafter be treated as an amendment to KRS 218.080 rather than an amendment to § 3716-8 of Carroll's Statutes.

§ 4. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section two of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of subsection (5) of KRS 218.090, and theerafter be treated as an amendment to subsection (5) of KRS 218.090 rather than an amendment to § 3716-9(5) of Carroll's Statutes.

By Mr. McPherson.

H. B. 316. An Act relating to juries.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 2243 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

(1) At each term of circuit court, of circuit courts having terms, held within one year after the commencement of the term at which the commissioners were appointed, the judge shall, in open court, draw from the drum a sufficient number of names to procure the names of twenty-four persons qualified to act as grand jurors, record the names of the twenty-four qualified upon paper, certify and sign it. The judge shall then, after having locked and revolved or shaken the drum, reopen it and draw therefrom the names of not less than thirty nor more than thirty-six persons, in the discretion of the judge, to act as petit jurors, record their names on paper, certify and sign it. Sessions of a court having continuous session held at the county seat of a county in which there is a city of the second class at which part of its sessions are authorized to be held shall be deemed terms of court within the meaning of this section.

(2) In courts of continuous session, except the courts in counties containing a city of the first-class, the judge of the court, or if the court has branches the judge of the criminal branch, shall, in open court, on Monday next before the Monday upon which they shall be summoned to appear, draw from the drum a sufficient number of names to procure twenty-four persons qualified to act as grand jurors, record the name of the twenty-four qualified upon paper, certify and sign it. In such courts the judge of the court, or if the court has branches the judge of each division requiring the services of a petit jury, shall, in open court, every two weeks, on Monday next

before the Monday upon which they shall be summoned to appear, draw from the drum the names of not less than thirty nor more than thirty-six persons to act as petit jurors, record their names on paper, certify and sign it. In such courts the names of all persons drawn as grand and petit jurors shall be publicly announced when drawn, and entered of record in the order drawn.

(3) In courts of counties containing a city of the first-class, the judge of the criminal branch shall, on Monday next before the Monday on which they shall be summoned to appear, draw from the drum a sufficient number of names, in the discretion of the judge, to procure a sufficient number of persons qualified to act as grand jurors, and shall make a written record thereof, which he shall certify and sign. In such courts the judge of each division requiring the services of a petit jury shall, every two weeks, on Monday next before the Monday upon which they shall be summoned to appear, draw from the drum a sufficient number of names, not to exceed sixty, in the discretion of the judge, to procure twenty-four persons qualified to act as petit jurors. The clerk of the court or the official stenographer, as directed by the court, shall prepare a record thereof on paper, which shall be certified and signed by the judge.

(4) From the list of persons qualified to act as grand jurors, the next grand jury shall be drawn, and from the list of names of persons qualified to act as petit jurors, not less than twenty-four nor more than thirty jurors shall be selected, in the discretion of the judge, to constitute the regular panel of the next petit jury.

(5) The judge shall place the lists in separate envelopes, of good paper, seal and endorse them so as to show that the envelopes contain jury lists, and the month of the term, and in courts having continuous session, the weeks and year, the jurors are selected for and the date of selection and sign his name across the seal of it. Immediately after drawing the names from the drum, the judge shall lock the drum. The

judge shall deliver the lists and the drum to the clerk, at the same time administering to the clerk and his deputies the oath prescribed in § 2241 of Carroll's Statutes, except that in courts of counties containing a city of the first class the judge may, in his discretion, retain possession of the drum, and in lieu of the oath prescribed in § 2241 shall administer to the clerk and his deputies the following oath: "You solemnly swear that you will not open the envelope containing the list of petit (or grand or petit jurors, as the case may be) jurors, until the time fixed by law; that you will not directly nor indirectly converse with anyone summoned as a grand juror or petit juror concerning any suit for trial in this court at its next term, unless by leave of court, so help you God." In counties containing a city of the first class neither the clerk nor the sheriff shall disclose to any person, other than those prescribed by law, any name or information concerning the name of any person who may be summoned as either a grand juror or a petit juror.

(6) The judge shall destroy the slips on which are written the names placed on the lists as soon as the names are recorded on the lists. If in drawing the grand jurors the name of a person not having the qualifications of a grand juror is drawn, it shall be forthwith returned to the drum, and if at any drawing the name of a person temporarily disqualified is drawn, it shall be replaced in the drum, but if the name of any person permanently disqualified for any jury service is drawn, the slip on which it is written shall be destroyed.

(7) In circuit courts having continuous sessions and more than one judge, if the judge of any division cannot attend upon the day provided for the drawing of names for juries, the judge of any division of the court may attend and draw names for the juries. In circuit courts having continuous sessions and only one judge, if the judge cannot attend upon the day provided for the drawing of names for juries, he shall draw the names for the juries upon the first day thereafter he does attend. Any special judge presiding at a

term of court at which the regular judge is absent, or over any division of a circuit court having continuous sessions, may draw the names for the juries in the same manner as the regular judge.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, then, upon the taking effect of the Kentucky Revised Statutes, subsections (1), (2), (3) and (4) of section one of this Act, shall be substituted in place of KRS 29.130, subsections (5) and (6) of section one of this Act shall be substituted in place of KRS 29.140, and subsection (7) of section one of this Act shall be substituted in place of KRS 29.150; the number "subsection (1) of KRS 29.080" shall be substituted in place of "§ 2241 of Carroll's Statutes" in subsection (5) of section one of this Act, and this Act shall thereafter be treated as amending the Kentucky Revised Statutes rather than Carroll's Statutes.

H. B. 317. An Act requiring cities and taxing districts to keep a record of all tax bills and special assessments for public improvements in the office of the County Clerk or sheriff of the county in which the city or taxing district is located, and fixing penalties.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. All cities except those constituting county seats, and all taxing districts, shall immediately, upon the assessment of any tax or special assessments for public improvements, deposit in the office of the clerk of the county court, or in the office of the sheriff of the county in which such city or taxing district is located, a record, in book form, showing in alphabetical order as to surnames the name of the person or persons against whom the taxes are assessed, a brief description of the property assessed, the tax bill number, also the political subdivision and lot and block number thereof, if any,

and the amount of tax or the amount of the special assessment, as the case may be, and showing the period covered by the assessment and the date due, and shall post or cause said books to be posted, showing the date such tax bills or special assessments are paid, or the date of the tax sale, and to whom sold, and the date of redemption or other disposition of tax sales; which posting shall be done at least once each week by the officer charged with the duty of collecting said tax or special assessment.

§ 2. It shall be the duty of the clerk of the county court or the sheriff to receive such tax or assessment records, and retain possession of them, and hold them subject to public inspection the same as other records of his office, and thereupon they shall constitute public records. The public may rely upon such records and shall be charged with notice thereof. Any failure of such city or taxing district to deposit said records with the county clerk or the sheriff, as the case may be, and periodically to post them as herein provided, shall absolve all parties from notice as to such taxes or assessments in so far as they shall constitute a lien upon any real estate affected thereby in the hands of an innocent holder for value.

By Mr. Pelfrey.

H. B. 318. An Act relating to motor vehicles.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Sections 2739g-2a and 2739g-9 of Carroll's Kentucky Statutes, 1936 edition, are amended and consolidated to read as follows:

(1) Before the owner or operator of a motor vehicle may operate it or permit its operation upon a highway, the owner or operator shall apply for registration to the county clerk of the county in which he resides or in which the motor

vehicle is to be operated, on a blank furnished by the department through the county clerk. The application shall be accompanied by the bill of sale if the application is for registration of a new motor vehicle, or the owner's registered receipt if the motor vehicle has been registered before. After that he shall register this motor vehicle on or before July 1 of each year. In so far as the owner is concerned registration with the county clerk shall be deemed to be a registration with the department.

(2) If the owner or operator, because of sickness or absence from the state, is unable to renew the registration of his motor vehicle on or before July 1, he will be deemed to have complied with the law if, before operating the motor vehicle in this state, he registers it at some later date and pays the fee for the twelve months' period beginning July 1 just as though he had renewed the registration on or before July 1. The owner or operator shall file with the application an affidavit showing sickness or absence.

§ 2. If any person becomes the owner of a motor vehicle between January 1, 1942 and July 1, 1942 and for that reason registers for only part of the year, the registration fee shall be as many twelfths of the annual fee as there are months between the date of acquisition of ownership and July 1, 1942. On or before July 1, 1942 he shall obtain an annual license as provided in section one of this Act.

§ 3. Any person who has, on the date on which this Act goes into effect, already registered a motor vehicle for the year 1942 under Section 2739g-2a of Carroll's Kentucky Statutes, 1936 edition, need not register under section one of this Act, on or before July 1, 1942. On or before January 1, 1943, such a person may register his motor vehicle for the period from January 1, 1943, to July 1, 1943, by paying a fee equal to fifty percent of the annual fees listed in Sections 2739g-2c(2) and 2739g-6 of Carroll's Kentucky Statutes, 1936

edition, and Section 1 of Chapter 112 of the Acts of 1940, and Section 1 of Chapter 111 of the Acts of 1940. For such registration the county clerk shall receive twenty-five cents. On or before July 1, 1943, a person who has, on the date on which this Act goes into effect, already registered a motor vehicle for the year 1942, may register for the succeeding twelve-month period, under section one of this Act.

§ 4. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, on the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 186.020, and thereafter be treated as an amendment to KRS 186.020 rather than an amendment to §§ 2739g-2a and 2739g-9 of Carroll's Kentucky Statutes, 1936 edition. "KRS 186.020" in section three shall be substituted for "Section 2739g-2a of Carroll's Kentucky Statutes, 1936 edition," "KRS 186.050" in section three shall be substituted for "Section 2739g-2c and Section 1 of Chapter 112 of the Acts of 1940," "KRS 186.090" in section three shall be substituted for "Section 1 of Chapter 111 of the Act of 1940," and "KRS 186.070" in section three shall be substituted for "Section 2739g-6."

§ 5. WHEREAS, the final date for registration as fixed in §§ 2739g-2a and 2739g-9 of Carroll's Kentucky Statutes, 1936 edition, will come before the date on which this Act will take effect if no emergency is declared, thereby postponing the operation of this Act until the year 1943, an emergency is declared to exist and this Act shall go into effect upon its approval and signature by the Governor.

By. Mr. Salyer.

H. Res. 61. A Joint Resolution Authorizing Gus A. Brooks of Mayslick, Mason County, Kentucky, to sue the Commonwealth of Kentucky:

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

THAT Gus A. Brooks of Mayslick, Mason County, Kentucky, is authorized to sue the Commonwealth of Kentucky in the Mason Circuit Court for damages resulting from personal injury (or property damage) caused by alleged negligence on the part of an employee of the Commonwealth of Kentucky while said employee was in the line of duty as an employee of this Commonwealth.

Said suit shall be for a sum not in excess of $1,000.

The Attorney General of the Commonwealth of Kentucky may investigate the claim (or claims) against the Commonwealth herein and settle said claim (or claims) before or after suit is filed, if he deems it advisable. Any amount recovered in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

Ordered that said bills and resolutions be printed and referred to the Committee on Rules.

Mr. Henry Ward of the Committee on Rules, moved that the Rules of this House be suspended for the purpose of making a motion.

Said motion was agreed to.

Thereupon Mr. Ward moved that the reports of the Contest Committees in the cases of Stone versus Hunt and Cooper versus Duff be filed with the Chief Clerk of this House and that said reports be not spread at length upon the Journal.

Said motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

S. B. 73. An Act to amend and reenact Section 965-14 of Carroll's Kentucky Statutes 1936 Edition relating to and fixing the time for holding Court in the Fourteenth Judicial District, composed of the counties of Bourbon, Franklin, Scott and Woodford.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Section 965-14 of Carroll's Kentucky Statutes, 1936 Edition, be amended and re-enacted so that the same when so amended and re-enacted shall read as follows:

Fourteenth District. Franklin County, at Frankfort, on the first Monday in January, twenty-four juridical days, first Monday in April, thirty juridical days, and the first Monday in September, twenty-four juridical days.

Scott County, at Georgetown, on the first Monday in February, and October, and the fourth Monday in May, eighteen juridical days each.

Woodford County, at Versailles, on the fourth Monday in February and October and the second Monday in May, twelve juridical days each.

Bourbon County, at Paris, on the second Monday in March and November, eighteen juridical days each, and the third Monday in June, twelve juridical days.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of subsection (14) of KRS 23.050 and shall thereafter be treated as an amendment to subsection (14) of KRS 23.050 rather than an amendment to § 965-14 of Carroll's Statutes.

Mr. Mefford moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | W. W. Freeman | Harry K. Lowman |
| Henry Arrowood | Joseph J. Grace | H. McCartney |
| William F. Ball | Bert Hall | Cary McDevitt |
| Robert E. Barry | A. G. Hamilton, Jr. | Norris McPherson |
| Rell Bevins | E. R. Hilton | Ed. Marcum |
| Gus A. Brooks | Clyde S. Howard | C. C. May |
| Sherman E. Carter | Chas. O. Humston | J. Milton Mefford |
| T. Fowler Combs | W. H. Hunt | D. J. Moore |
| John Henry Cox | Joe B. Jarboe, Jr. | L. D. Moore |
| Guthrie F. Crowe | William L. Jones | C. E. Montgomery |
| Pink G. Curd | John S. Juett | Coy Nevitt |
| Forest C. Easley | W. A. Lamkin | Robert Nicholas |
| John D. Fields | H. W. Linville | H. C. Patterson |
| T. P. Fitzpatrick | A. L. Love | Paul Pelfrey |

| | | |
|---|---|---|
| Kleber F. Price | Clyde Smith | Roy L. Taylor |
| Dr. J. J. Rice | Otto Smither | Rev. H. Tinsley |
| Wade H. Riley | Charles L. Spilman | Erna E. Tyra |
| Byron H. Royster | J. Claude Stacy | S. J. Wagner |
| Dr. K. N. Salyer | Thomas M. Swope | Harry Walters |
| Carl Scheben | C. W. Taylor | H. A. Ward |
| Leon J. Shaikun | Egbert Taylor | Henry Ward |

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Resolved that the title thereof be as aforesaid.

Mr. Mefford moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 100. An Act relating to registration of voters.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 1486bb-10 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

(1) When a voter registered outside of cities of the first class changes his place of residence from one precinct to another in the same county, he may apply to the county clerk in person or by letter or by form which may be provided to have his registration record transferred to the proper precinct. The clerk shall then mail a notice to the address of the voter appearing on the existing registration records, stating that such application has been made and the particulars thereof, and that the change will be made unless protest is filed at the office of the county clerk within ten days from the date of the notice. If no protest is filed within the period of ten days

the county clerk shall change the registration record to the proper precinct as requested. If protest is filed within the ten-day period, the change shall not be made until the clerk has investigated the matter and given the protesting voter an opportunity to be heard. When change is so made, the clerk shall, under the head "remarks" on his original and copy registration record forms, write the words "removed to ..... precinct," and the date. Such transfers shall be registered only on those days when registrations are allowed under section 1496-14.

(2) When the boundaries of any precinct are changed by law and the change places a registered voter in a new or different precinct, the county clerk shall transfer the individual registration record of the voter to the precinct registrar for the precinct in which he is placed by the change or boundary. The transfer shall be made automatically, without any application therefor by the voter. The date on which the change is made and the reason therefor shall be noted on the individual's registration record, and a notice thereof shall be mailed by the county clerk to the voter, advising him thereof and the reason therefor.

§ 2. Section 1496-14 of Baldwin's 1938 Supplement to Carroll's Kentucky Statutes, as amended by Chapter 75 of the Acts of 1940, is amended to read as follows:

(1) Any person possessing the qualifications for registration as a legal voter may appear before the county clerk of the county of his residence, or at the permanent office or a branch office of the board of registration commissioners if he resides in a city of the first class, and register, or change his party affiliation, at an hour of any day that the office of the county clerk or the board of registration commissioners is open for business. The county clerk of every county and the board of registration commissioners of every city of the first class shall cause all registration books or lists to be closed fifty-nine days prior to any primary or general election, and

no voter shall be registered or be permitted to change his registration during the period that the books are closed. The county clerk and board of registration commissioners shall not again reopen their books for registration of voters or the reregistering or changing of party affiliation of voters until ten days after any primary or general election.

(2) In counties containing a city of the third class that is not the county seat, the county clerk shall take the registration books for each voting precinct in the city to the courthouse or city hall of the city and keep them there during the period the books are open. Any person possessing the qualifications for registration as a legal voter of any voting precinct in the city may appear before the clerk during the period the books are open at the office or place in the courthouse or city hall of the city where the registration books are taken, at any hour of the day the office or place is open for business, and register or change his party affiliation.

(3) Any voter who wishes to change his party affiliation and who does not wish to apply in person may apply to the county clerk, or to the board of registration commissioners if he resides in a city of the first class, by letter or by form which may be provided. The clerk or board shall then mail a notice to the address of the voter appearing on the existing registration records, stating that such application has been made and the particulars thereof, and that the change will be made unless protest is filed at the office of the clerk or the board within ten days from the date of the notice. If no protest is filed within the ten-day period, the county clerk or the board shall change the party affiliation of the voter as requested. If a protest is filed the change shall not be made until the clerk or the board has investigated the matter and given the protesting voter an opportunity to be heard. The date on which the change is made shall be noted on the voter's registration record. No change of party affiliation shall be made except on those days when registrations are allowed under sub-section (1) of this section.

§ 3. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 117.100, and section two of this Act shall be substituted in place of KRS 117.050, and shall thereafter be treated as amendments to KRS 117.100 and 117.050 rather than amendments to sections 1486bb-10 and 1496-14 of Carroll's Statutes, and the number "KRS 117.050" shall be substituted for the number "section 1496-14" in the last sentence of subsection (1) of section one of this Act.

Mr. Shaikun moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | T. Fowler Combs | E. R. Hilton |
| George P. Anderson | Oris Cooper | Clyde S. Howard |
| Henry Arrowood | John Henry Cox | Jerry F. Howell |
| William F. Ball | Guthrie F. Crowe | Chas. O. Humston |
| Robert E. Barry | Pink G. Curd | W. H. Hunt |
| Robert E. Beatty | T. P. Fitzpatrick | John S. Juett |
| Rell Bevins | W. W. Freeman | W. A. Lamkin |
| H. M. Brock, Jr. | Joseph J. Grace | A. L. Love |
| Sherman E. Carter | P. Bert Hall | William Lovett |
| C. L. Clayton | Joe Higgins | Hugh D. Lyon |

| | | |
|---|---|---|
| H. McCartney | Kleber F. Price | R. C. Stephenson |
| Cary McDevitt | James E. Quill | Thomas M. Swope |
| Norris McPherson | Dr. J. J. Rice | Roy L. Taylor |
| Ed. Marcum | Wade H. Riley | Rev. H. Tinsley |
| C. C. May | Dr. K. N. Salyer | John L. Trumbo |
| D. J. Moore | Carl Scheben | Erna E. Tyra |
| L. D. Moore | Leon J. Shaikun | Harry Walters |
| C. E. Montgomery | Faust Y. Simpson | H. A. Ward |
| E. R. Morlidge | Clyde Smith | Henry Ward |
| Coy Nevitt | Otto Smither | H. L. Waterfield |
| Robert Nicholas | Charles L. Spilman | |
| Paul Pelfrey | J. Claude Stacy | —64 |

Resolved that the title thereof be as aforesaid.

Mr. Shaikun moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 83. An Act relating to public parks in cities of the second class.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Sections 3235b-12 and 3235b-13 of Carroll's Kentucky Statutes, 1936 edition, as amended by Chapter 125 of the Acts of 1940, are consolidated into one section and amended to read as follows:

"(1) The city may appropriate a sufficient sum to provide for the purchase, care and improvement of public parks, and to meet the expenses of the boards of park commissioners,

and may maintain public parks out of the city funds to the same extent as it is authorized to maintain other public property.

"(2) Two funds in whatever amounts the city legislative body deems sufficient for the care and maintenance of public parks may be annually appropriated for that purpose, and each shall be held by the treasurer of the city in a separate and distinct account, one for use by the white park board and the other for use by the colored park board. The money in either fund shall be paid out by the treasurer only upon an order issued by the board of park commissioners for which the fund is appropriated, signed by its secretary and countersigned by its president, and after a bill for the withdrawal has been approved by the board at session assembled. In no event shall the treasurer honor in any one year orders for a greater sum than the amount appropriated for park purposes."

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 97.470, and shall thereafter be treated as an amendment to KRS 97.470 rather than an amendment to §§ 3235b-12 and 3235b-13 of Carroll's Statutes.

Mr. Henry Ward moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| George P. Anderson | W. A. Lamkin | Wade H. Riley |
| Henry Arrowood | H. W. Linville | Byron H. Royster |
| William F. Ball | A. L. Love | Dr. K. N. Salyer |
| Robert E. Barry | William Lovett | Carl Scheben |
| Rell Bevins | Harry K. Lowman | Leon J. Shaikun |
| H. M. Brock, Jr. | Hugh D. Lyon | Faust Y. Simpson |
| Sherman E. Carter | H. McCartney | Clyde Smith |
| C. L. Clayton | Cary McDevitt | Otto Smither |
| T. Fowler Combs | Norris McPherson | Charles L. Spilman |
| John Henry Cox | Ed. Marcum | R. C. Stephenson |
| Guthrie F. Crowe | C. C. May | Thomas M. Swope |
| Pink G. Curd | J. Milton Mefford | Egbert Taylor |
| Forest C. Easley | D. J. Moore | Roy L. Taylor |
| T. P. Fitzpatrick | L. D. Moore | Rev. H. Tinsley |
| W. W. Freeman | C. E. Montgomery | John L. Trumbo |
| Joseph J. Grace | E. R. Morlidge | S. J. Wagner |
| P. Bert Hall | Coy Nevitt | Harry Walters |
| E. R. Hilton | Robert Nicholas | H. A. Ward |
| Clyde S. Howard | H. C. Patterson | Henry Ward |
| Jerry F. Howell | Paul Pelfrey | H. L. Waterfield |
| W. H. Hunt | Kleber F. Price | E. Reed Wilson |
| William L. Jones | L. Allen Rhoads | |
| John S. Juett | Dr. J. J. Rice | —67 |

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Henry Ward moved that the House do now adjourn to meet again on Monday, February 16 at two o'clock P. M.

Said motion was agreed to.

And then the House adjourned

MONDAY, FEBRUARY 16, 1942

The House was called to order by The Honorable Stanley S. Dickson, Speaker.

The House was opened with prayer by the Reverend Fred Moffatt of the First Baptist Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

C. W. Anderson, Jr.
George P. Anderson
Henry Arrowood
W. T. Beard
Robert E. Beatty
Rell Bevins
Douglas T. Bolling
H. M. Brock, Jr.
Sherman E. Carter
C. L. Clayton
Oris Cooper
M. A. Cornett
John Henry Cox
Guthrie F. Crowe
Pink G. Curd
Dr. J. A. Duff
Forest C. Easley
Harry W. Ennis
John D. Fields
T. P. Fitzpatrick
W. W. Freeman
Joseph J. Grace
P. Bert Hall
A. G. Hamilton, Jr.
Fuller Harding
E. R. Hilton
Clyde S. Howard
Jerry F. Howell
Chas. O. Humston
Crow Jarvis
William L. Jones
John S. Juett
W. A. Lamkin
H. W. Linville
A. L. Love
Harry K. Lowman
Hugh D. Lyon
H. McCartney
Cary McDevitt
Norris McPherson
Dr. Wm. C. Mann
Ed. Marcum
C. C. May
J. Milton Mefford
D. J. Moore
J. Lee Moore
L. D. Moore
C. E. Montgomery
F. E. Morancy
E. R. Morlidge
C. Sid Nabb
Coy Nevitt
H. C. Patterson
Paul Pelfrey
B. W. Porter
Kleber F. Price
James E. Quill
L. Allen Rhoads
Dr. J. J. Rice
Wade H. Riley
Dr. M. M. Robinson
Byron H. Royster
Dr. K. N. Salyer
Carl Scheben
Leon J. Shaikun
Faust Y. Simpson
Clyde Smith
Otto Smither
Charles L. Spilman
James D. Stacey
R. C. Stephenson
Thomas M. Swope
C. W. Taylor
Egbert Taylor
Roy L. Taylor
Rev. H. Tinsley
John L. Trumbo
Erna E. Tyra
J. Wood Vance
S. J. Wagner
C. R. Walden
Harry Walters
H. A. Ward
Henry Ward
H. L. Waterfield
Stanley S. Dickson, Speaker—86

Mr. Scheben moved that the reading of the Journal of Friday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Swope moved that the Rules of this House be suspended for the purpose of extended privileges of the floor.

Said motion was agreed to.

Thereupon Mr. Salyer moved that the privilege of the floor be extended to Mr. L. F. Brewer of Elizabethtown.

Said motion was agreed to.

Mr. Roy L. Taylor moved that the privilege of the floor be extended to Mr. C. G. Peoples and Charles Ashcraft.

Said motion was agreed to.

Mr. Trumbo moved that the privilege of the floor be extended to Mr. Laurence Jones.

Said motion was agreed to.

Mr. Combs moved that the privilege of the floor be extended to Messrs. Carroll Baker and Charlie Stokes.

Said motion was agreed to.

Mr. Swope moved that the privilege of the floor be extended to Messrs. Robert Watts and Henry Henderson and Mr. and Mrs. Ban McConnelley.

Said motion was agreed to.

Mr. Jouett moved that the privilege of the floor be extended to Mr. Barney O'Dell.

Said motion was agreed to.

Mr. Pelfrey moved that the privilege of the floor be extended to Mr. C. A. Stinson.

Said motion was agreed to.

Mr. Morlidge moved that the privilege of the floor be extended to Mr. Robert Hommel.

Said motion was agreed to.

Mr. Carter moved that the privilege of the floor be extended to Mr. Paul Dexheimer.

Said motion was agreed to.

Mr. Waterfield called up H. B. 158 as follows:

H. B. 158. An Act to provide that ninety per cent of the Kentucky excise tax paid on refund gasoline, be refunded to the purchaser who uses the gasoline in a tractor or stationary engine for agricultural purposes, was referred to the Committee on Revenue and Taxation No. 1 on January 28, and in view of the failure of this Committee to report this bill within a reasonable time, I hereby call up said bill for consideration in the same manner it would have been considered if this Committee had reported it out, as is authorized and provided for under the following provision in Section 46 of the Constitution:

Section 46. Bills; manner of passing; failure of Committee to report. No bill shall be considered for final passage, unless the same has been reported by a Committee and printed for the use of the members. Every bill shall be read at length on three different days in each House; but the second and third readings may be dispensed with by a majority vote of all members elected to the House in which the bill is pending. But whenever a committee refuses or fails to report a bill submitted to it in a reasonable time, the same may be called up by any member, and be considered in the same manner it

would have been considered if it had been reported. No bill shall become a law unless, on its final passage, it receives the votes of at least two-fifths of the members elected to each House, and a majority of the members voting, the vote to be taken by yeas and nays and entered in the journal; provided any act or resolution for the appropriation of money or the creation of debt shall, on its final passage, receive the votes of a majority of all the members elected to each House.

The Speaker ruled Mr. Waterfield out of order on the ground that he was proceeding contrary to the Rules adopted by the House.

Mr. Henry Ward of the Committee on Rules, to which the same had been referred, reported bills of the following titles, viz.:

H. B. 264. An Act relating to finance and revenue of counties and cities.

H. B. 297. An Act relating to federal food or cotton stamp plan.

With the expression of opinion that said bills ought to pass.

Said bills were each read at length the first time and ordered to be placed on the Calendar.

The House took up for consideration from the Calendar, bills of the following titles, viz.:

H. B. 292. An Act relating to the purchase or sale of any property, real, personal or mixed, etc.

H. B. 285. An Act relating to permits to erect or maintain poles, lines, wires, pipe lines or other equipment on the rights of way.

H. B. 269. An Act making provision for a Statute Revision Commission.

H. B. 270. An Act relating to the preparation and printing of the Journal and Acts of the present session of the General Assembly.

H. B. 271. An Act revising the Kentucky Statutes.

H. B. 253. An Act relating to elections with particular relation to voting machines.

H. B. 236. An Act relating to probation and parole.

H. B. 309. An Act to authorize the creation and establishment of County Housing Commissions.

H. B. 310. An Act to declare valid and legal the creation of Municipal Housing Commissions.

H. B. 311. An Act to authorize Housing Commissions, and any cities creating them to undertake the development of administration of project to assure the availability of safe and sanitary dwellings.

H. B. 312. An Act authorizing cities to adopt ordinances relating to the repair, closing and demolition of dwellings unfit for human habitation.

S. B. 4. An Act providing for the consolidation of counties.

S. B. 17. An Act relating to state warrants.

S. B. 88. An Act requiring instruction in the public schools and colleges as to the effect of alcoholic liquirs on the human system.

S. B. 89. An Act relating to old age Assistance.

S. B. 90. An Act creating a primary road in Grayson county.

S. B. 93. An Act to authorize the Director of Insurance to make reasonable rules and regulations pertaining to the enforcement of the Insurance Laws of Kentucky.

S. B. 94. An Act relating to deposits by insurance companies.

S. B. 95. An Act providing for the enforcement of laws and ordinances relating to hazards or risks insured by fire insurance companies.

S. B. 96. An Act authorizing counties, municipalities and other taxing districts to invest their sinking funds in Defense Bonds.

S. B. 131. An Act relating to insurance agents.

Ordered that said bills be read the second time.

The Constitutional provision as to the second reading of said bills at length being dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day.

At the instance of the Committee on Rules

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 144. An Act to regulate the practice of dental hygiene, and vesting the regulation thereof in the Kentucky State Board of Dental Examiners.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwtalth of Kentucky:*

Section 1. Definitions.—(a) The term "dental hygiene" as used in this act shall mean the treatment of human

teeth by removing therefrom calcareous deposits, and by removing accumulated accretion from directly beneath the free margin of the gums, and by polishing the exposed surface of the teeth: Provided that nothing of this act shall be so construed as to affect the practice of medicine or dentistry nor to prevent students of a dental college or university from practicing dental hygiene under supervision of their instructors.

(b) The term "dental hygienist" as used in this act shall mean any person who practices dental hygiene.

(c) The term "Board" as used in this act shall mean the Kentucky State Board of Dental Examiners, existing pursuant to the provisions of Section 2636-1 of the Kentucky Statutes, and amendments thereto.

Section 2. Administration.—The Board is hereby vested with authority and charged with the duty of administering the provisions of this act.

Section 3. Powers and Duties of Board.—The Board shall meet as often and at such places as it deems necessary for examination of applicants who desire to practice dental hygiene in this State. The Board shall keep a record of the names, addresses, and license numbers, of all persons legally entitled to practice dental hygiene in this State.

The Board may adopt and enforce such rules and regulations as it deems necessary and reasonable to carry out the provisions of this act.

Section 4. Compensation to Members of Board. The members of the Board shall be compensated and shall receive their expenses for administering the provisions of this act to the same extent and in the same manner as they are compensated and reimbursed for expenses in administering the provisions of Chapter 148 of the Acts of the 1938 General Assembly, as provided by Section 10 of said Chapter.

Section 5. Eligibility.—Any person of good moral character over twenty-one years of age who is a citizen of the

United States of America, a graduate of an accredited high school and has successfully completed two years of training in a school of dental hygiene that is approved by the Board, shall be eligible to take the examination for the practice of dental hygiene.

Section 6. Examination, Licenses, and Fees.—Any eligible persons desiring to practice dental hygiene shall make written application to the Board to take the examination. Such application shall be accompanied by a written recommendation of two reputable dentists of this State, and an examination fee of Twenty ($20.) dollars, which sum is authorized to be charged for each examination by the Board.

As soon as the Board has determined that an applicant has successfully passed the examination, a license to practice dental hygiene in this State shall be issued by the Board to such applicant. The license shall be for one calendar year or for the remaining portion thereof if issued as of a date after January 1. Each license shall be renewed from year to year, except for cause as herein provided.

The Board shall charge three ($3) dollars for each license or duplicate license or renewal license issued, which sum shall be paid in advcance or at the time the license is issued.

Section 7. Practitioners.—No person shall practice dental hygiene nor hold himself or herself out as a dental hygienist without a license issued by the Board, and unless he or she is an employee of a licensed and practicing dentist of this State and is under the continuous supervision and inspection of such dentist. The license shall be continously displayed in a conspicuous place in the office of the licensee.

Section 8. Signature, Seal, Etc., on License.—All licenses issued by the Board shall bear a serial number, the full name of the applicant, the date of the issue, the seal of the Board, and be signed by a majority of the members, and attested by its President and Secretary.

Section 9. Revocation or Suspension of License.—The Board may, upon complaint or upon its own motion, after a hearing, and after ten days notice, in writing, to the licensee of the time and place of hearing, revoke, suspend or refuse to renew the license of any dental hygienist by entering an order to that effect, together with its findings in respect thereto, if it shall be determined that such licensee:

(1) Has violated any of the provisions of this act or any regulation made hereunder; or

(2) Has made a material false statement in his application for examination; or

(3) No longer possesses good moral character; or

(4) Directly or indirectly advertises or solicits for dental hygiene business; or

(5) Is grossly inefficient in his profession.

In any proceeding to revoke, suspend or refuse to renew the license of any licensee a certified copy of any order entered by the Board shall immediately be delivered or sent to the licensee by registered mail at his last known address.

Any licensee aggrieved by an order of the Board may, within thirty days from the date of entry of said order, appeal to the circuit court in and for the county in which was held the meeting of the Board at which the action of the Board complained of was taken. In case a person desires to take such an appeal he shall file with the clerk of the circuit court to which the appeal is taken a petition setting forth the grounds of appeal, and shall file with said clerk an appeal bond with good and sufficient security, to be approved by said clerk, to the State of Kentucky, conditioned for the speedy prosecution of such appeal and the payment of such costs as may be charged against him upon such appeal. Summons on such an appeal shall be issued and may be served on the President or Secretary of the Board in any county in this State where either of them may be found. Within ten days after the service of summons on such appeal, the Secretary

shall transmit to the clerk of the circuit court, to which said appeal is taken, a certified copy, under the seal of the Board, all evidence considered and orders entered by the Board in connection with said proceeding. The clerk of such court shall thereupon docket such appeal. The court shall only hear and consider such documentary and other evidence as was heard and considered by the Board, and that is contained in the transcript upon which the appeal is taken. Either party may appeal from the judgment of the circuit court to the Court of Appeals in the manner as civil actions may be appealed thereto. The order of the board appealed from shall be stayed from the date of the approval of said bond until final determination of the appeal.

Section 10. Disposition of Fees.—All fees imposed and collected under the provisions of this act shall be paid to the Secretary-Treasurer of the board for the use of the Board, and shall be deposited in the State Treasury to the credit of a revolving fund for the use of the Board.

Section 11. Penalties.—Any person violating any provisions of this act shall be deemed guilty of misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed fifty ($50.) dollars, or by punishment in the county jail for a term not to exceed thirty days, or by both such fine and imprisonment.

Section 12. If the Kentucky Revised Statutes are enacted at the present term of the General Assembly, the number "KRS 313.200" shall be substituted for "Section 2636-1 of the Kentucky Statutes, and amendments thereto," in subsection (c) of Section 1 of this Act, and the words and figures "Chapter 313 of the Kentucky Revised Statutes, as provided in KRS 313.070, 313.200 and 313.220" shall be substituted in place of "Chapter 148 of the Acts of the 1938 General Assembly, as provided by Section 10 of said Chapter" in Section 4 of this Act.

Mr. Robinson moved the Previous Question.

Thereupon the Speaker announced "Shall The Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | P. Bert Hall | Robert Nicholas |
| George P. Anderson | A. G. Hamilton, Jr. | B. W. Porter |
| Henry Arrowood | E. R. Hilton | Kleber F. Price |
| Robert E. Barry | Clyde S. Howard | Dr. J. J. Rice |
| W. T. Beard | Crow Jarvis | Dr. M. M. Robinson |
| Robert E. Beatty | William L. Jones | Dr. K. N. Salyer |
| Rell Bevins | W. A. Lamkin | Carl Scheben |
| H. M. Brock, Jr. | H. W. Linville | Leon J. Shaikun |
| Gus A. Brooks | A. L. Love | Faust Y. Simpson |
| Sherman E. Carter | Hugh D. Lyon | Charles L. Spilman |
| C. L. Clayton | Cary McDevitt | James D. Stacey |
| T. Fowler Combs | Norris McPherson | R. C. Stephenson |
| Oris Cooper | Dr. Wm. C. Mann | Egbert Taylor |
| M. A. Cornett | Ed. Marcum | Roy L. Taylor |
| John Henry Cox | C. C. May | Rev. H. Tinsley |
| Guthrie F. Crowe | D. J. Moore | John L. Trumbo |
| Pink G. Curd | J. Lee Moore | J. Wood Vance |
| Dr. J. A. Duff | L. D. Moore | S. J. Wagner |
| Harry W. Ennis | C. E. Montgomery | Harry Walters |
| T. P. Fitzpatrick | F. E. Morancy | H. A. Ward |
| W. W. Freeman | E. R. Morlidge | Henry Ward |
| Joseph J. Grace | C. Sid Nabb | H. L. Waterfield |

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Those who voted in the negative were—

Forest C. Easley Coy Nevitt Erna E. Tyra
Joe B. Jarboe, Jr. Byron H. Royster —5

Resolved that the title thereof be as aforesaid.

Mr. Robinson moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules

The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 148. An Act relating to credit for imprisonment during inability to secure bail.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 1142a of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

If in any trial in a circuit, county, quarterly, justice's or police court of this state, the defendant has been compelled to remain in jail, by reason of his inability to execute bond, to answer the charge in the court in which he is held, and, on trial had in such court, he has been found guilty and his punishment fixed at a fine or a term in the county jail, he shall, in the case of a fine, be given credit at the rate of two dollars per day for each day he was so compelled to remain in jail, and in the case of a jail sentence, shall be given credit on such sentence for the time he was so compelled to remain in jail. The court shall endorse on the judgment a credit for the number of days the defendant was so compelled to remain in jail, and, in the case of a jail sentence, shall make an entry on

the commitment, and the defendant shall be discharged from the county jail when he has served the full term for which he was convicted less such credit of time as he is to receive as herein provided.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes be substituted in place of KRS 431.150 and shall thereafter be treated as an amendment to KRS 431.150 rather than an amendment to § 1142a of Carroll's Statutes.

Mr. George Anderson moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Oris Cooper | A. G. Hamilton, Jr. |
| George P. Anderson | M. A. Cornett | Fuller Harding |
| Henry Arrowood | John Henry Cox | E. R. Hilton |
| Robert E. Barry | Guthrie F. Crowe | Clyde S. Howard |
| W. T. Beard | Pink G. Curd | Chas. O. Humston |
| Robert E. Beatty | Dr. J. A. Duff | William L. Jones |
| Rell Bevins | Harry W. Ennis | John S. Juett |
| Gus A. Brooks | T. P. Fitzpatrick | W. A. Lamkin |
| Sherman E. Carter | W. W. Freeman | H. W. Linville |
| C. L. Clayton | Joseph J. Grace | A. L. Love |
| T. Fowler Combs | P. Bert Hall | Harry K. Lowman |

| | | |
|---|---|---|
| Hugh D. Lyon | Paul Pelfrey | Charles L. Spilman |
| Cary McDevitt | B. W. Porter | James D. Stacey |
| Norris McPherson | Kleber F. Price | R. C. Stephenson |
| Dr. Wm. C. Mann | James E. Quill | Thomas M. Swope |
| Ed. Marcum | L. Allen Rhoads | C. W. Taylor |
| C. C. May | Dr. J. J. Rice | Egbert Taylor |
| J. Milton Mefford | Wade H. Riley | Rev. H. Tinsley |
| D. J. Moore | Dr. M. M. Robinson | John L. Trumbo |
| L. D. Moore | Byron H. Royster | J. Wood Vance |
| C. E. Montgomery | Dr. K. N. Salyer | S. J. Wagner |
| E. R. Morlidge | Carl Scheben | C. R. Walden |
| C. Sid Nabb | Leon J. Shaikun | Harry Walters |
| Coy Nevitt | Faust Y. Simpson | H. A. Ward |
| Robert Nicholas | Clyde Smith | Henry Ward |
| H. C. Patterson | Otto Smither | H. L. Waterfield |

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Those who voted in the negative were—

Jerry F. Howell Joe B. Jarboe, Jr. —2

Resolved that the title thereof be as aforesaid.

Mr. George Anderson moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 135. An Act relating to the distribution of the common school fund.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. § 4370-6 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

For each school year the Department of Finance, on the certification of the Superintendent of Public Instruction, shall draw a warrant on the treasurer for the amount of the school fund due each district. The checks or warrants, in case the warrants are stamped interest-bearing, shall be turned over to the Superintendent of Public Instruction for distribution to the proper officials of the several school districts when the districts have fully complied with the school laws and rules and regulations of the State Board of Education. The school fund shall be distributed in the same number of installments as there are months in the minimum school term declared by the Superintendent of Public Instruction upon the approval of the State Board of Education. The first installment shall be paid on or before August 1 of each year to those districts whose terms begin during the month of July and the first installment shall be paid on or before September 1 of each year to all other districts and the subsequent installments paid on or before the first day of each succeeding month until all of the installments have been paid.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 157.050, and shall thereafter be treated as an amendment to KRS 157.050 rather than an amendment to § 4370-6 of Carroll's Statutes.

Mr. Decoursey Moore moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Crow Jarvis | Dr. J. J. Rice |
| George P. Anderson | William L. Jones | Wade H. Riley |
| Robert E. Barry | John S. Juett | Dr. M. M. Robinson |
| W. T. Beard | W. A. Lamkin | Byron H. Royster |
| Robert E. Beatty | H. W. Linville | Dr. K. N. Salyer |
| Rell Bevins | A. L. Love | Carl Scheben |
| H. M. Brock, Jr. | Harry K. Lowman | Leon J. Shaikun |
| Sherman E. Carter | Hugh D. Lyon | Faust Y. Simpson |
| C. L. Clayton | H. McCartney | Clyde Smith |
| T. Fowler Combs | Cary McDevitt | Otto Smither |
| Oris Cooper | Norris McPherson | Charles L. Spilman |
| M. A. Cornett | Dr. Wm. C. Mann | James D. Stacey |
| John Henry Cox | Ed. Marcum | R. C. Stephenson |
| Guthrie F. Crowe | C. C. May | Thomas M. Swope |
| Pink G. Curd | J. Milton Mefford | C. W. Taylor |
| Dr. J. A. Duff | D. J. Moore | Roy L. Taylor |
| T. P. Fitzpatrick | L. D. Moore | Rev. H. Tinsley |
| W. W. Freeman | C. E. Montgomery | Erna E. Tyra |
| Joseph J. Grace | E. R. Morlidge | J. Wood Vance |
| P. Bert Hall | C. Sid Nabb | S. J. Wagner |
| A. G. Hamilton, Jr. | Coy Nevitt | C. R. Walden |
| Fuller Harding | Robert Nicholas | H. A. Ward |
| E. R. Hilton | H. C. Patterson | Henry Ward |
| Clyde S. Howard | B. W. Porter | H. L. Waterfield |
| Jerry F. Howell | Kleber F. Price | |
| Chas. O. Humston | L. Allen Rhoads | —76 |

Resolved that the title thereof be as aforesaid.

Mr. Decoursey Moore moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 216. An Act relating to the age of persons driving school buses and public passenger carrying vehicles.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 2739m-38 of Carroll's Kentucky Statutes is amended to read as follows:

No person under twenty-one (21) years of age shall drive a motor vehicle while it is in the use as a public passenger carrying vehicle. No person under eighteen (18) years of age shall drive a motor vehicle while it is in use as a school bus for transporting pupils.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 186.600, and thereafter be treated as an amendment to KRS 186.600 rather than an amendment to Section 2739m-38 of Carroll's Statutes.

Mr. Smither moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | John S. Juett | Byron H. Royster |
| George P. Anderson | W. A. Lamkin | Dr. K. N. Salyer |
| Robert E. Barry | A. L. Love | Carl Scheben |
| W. T. Beard | Hugh D. Lyon | Leon J. Shaikun |
| Sherman E. Carter | H. McCartney | Faust Y. Simpson |
| C. L. Clayton | Norris McPherson | Otto Smither |
| T. Fowler Combs | Dr. Wm. C. Mann | Charles L. Spilman |
| M. A. Cornett | Ed. Marcum | James D. Stacey |
| John Henry Cox | C. C. May | R. C. Stephenson |
| Guthrie F. Crowe | J. Milton Mefford | Thomas M. Swope |
| Pink G. Curd | D. J. Moore | C. W. Taylor |
| Harry W. Ennis | J. Lee Moore | Egbert Taylor |
| T. P. Fitzpatrick | L. D. Moore | Roy L. Taylor |
| W. W. Freeman | C. E. Montgomery | Rev. H. Tinsley |
| Joseph J. Grace | C. Sid Nabb | S. J. Wagner |
| Bert Hall | Robert Nicholas | C. R. Walden |
| A. G. Hamilton, Jr. | Paul Pelfrey | Harry Walters |
| Fuller Harding | B. W. Porter | H. A. Ward |
| E. R. Hilton | Kleber F. Price | Henry Ward |
| Jerry F. Howell | Dr. J. J. Rice | H. L. Waterfield |
| Crow Jarvis | Wade H. Riley | |
| William L. Jones | Dr. M. M. Robinson | —64 |

Those who voted in the negative were—

| | | |
|---|---|---|
| H. M. Brock, Jr. | Cary McDevitt | Coy Nevitt |
| Oris Cooper | | —4 |

Resolved that the title thereof be as aforesaid.

Mr. Smither moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

By Order of the Speaker and without objection, the session of today was extended indefinitely.

Mr. Beard of the Committee on Enrollment reported that they had examined and found to be correctly enrolled, bills of the following titles, viz.:

H. B. 93. An Act providing for airports for cities and counties.

H. B. 59. An Act relating to city streets, viaducts and bridges.

H. B. 29. An Act to provide free text books for children in State correctional institutions.

H. B. 40. An Act relating to public education.

Thereupon all other business was suspended, said bills were read at length and compared in open session and found to be correctly enrolled and thereupon the Speaker, in open session and in the presence of the House, affixed his signature thereto.

Ordered that the Enrolling Clerk of this House deliver said bills to the Senate.

After a time the Enrolling Clerk aforesaid, delivered the original and enrolled copies of said bills duly signed by the President of the Senate, into the possession of the Chief Clerk of this House.

Ordered that the Chief Clerk deliver said bills to the Governor.

After a time the Chief Clerk reported that he had discharged that duty.

A message was received from the Senate announcing that they had passed bills which originated in this House, entitled:

H. B. 120. An Act concerning the manner of commitment of incompetent veterans of the World War.

H. B. 21. An Act relating to the embezzlement, conversion, misappropriation or misapplication of the sinking fund in cities of the second class.

With an amendment thereto by way of Substitute therefor as proposed by the Senate.

H. B. 117. An Act authorizing and empowering cities to acquire, erect, maintain and operate a system of parking meters.

With amendments thereto as proposed by the Senate.

Ordered that H. B. 120 be delivered to the Enrolling Clerk of this House.

Ordered that H. B. 21 and H. B. 117 be laid on the Clerk's Desk.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 169. An Act relating to revenue and taxation of gasoline.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 4281g-7 of Carroll's Kentucky Statutes, 1936 Edition, is repealed.

§ 2. Section 4281g-19 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

If any dealer files a false monthly report of the data or information required by §§ 4281g-1 to 4281g-20, or fails, refuses or neglects to file the monthly report required by those sections, even though no tax is due, or to pay the full amount of tax as required by those sections, the dealer may be cited by the Department of Revenue to show cause at a public hearing before the Kentucky Tax Commission why his license should

not be revoked by the Commission. The dealer shall be notified by registered letter or summons. The letter or summons shall apprise the dealer of the charge or charges made against him and he shall have a reasonable opportunity to be heard before his license may be revoked. The summons may be served in the same manner and by the same officers or persons as provided by the Kentucky Civil Code of Practice, or it may be served in said manner by an employee of the Department of Revenue. The hearing shall be set at least five (5) days after the summons is served or the letter delivered. Any aggrieved dealer may appeal from an order of the Kentucky Tax Commission in the manner provided for appeals from other of its rulings subject to the condition that he make bond sufficient in the opinion of the Department of Revenue to protect the Commonwealth from loss of revenue.

The Department is hereby given the power to cancel the license upon request in writing of the dealer, such cancellation to become effective sixty (60) days from the date of receipt of the request. But no license shall be canceled upon the request of any dealer until and unless the dealer, prior to the date of such cancellation, pays to the state all excise taxes payable under the laws of the state together with any and all penalties and fines accruing by reason of any failure on the part of the dealer to make accurate reports as required or pay such taxes and penalties.

§ 3. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section two of this Act shall, upon the taking effect of the Kentucky Statutes, be substituted in place of KRS 138.340, and shall thereafter be treated as an amendment to KRS 138.340 rather than an amendment to § 4281g-19 of Carroll's Statutes; the numbers "KRS 138.220 to 138.280" shall be substituted for §§ 4281g-1 to 4281g-20 in section two of this Act, and paragraph (a) of subsection (1) of KRS 138.240 shall stand repealed.

Mr. Rhoads moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | H. W. Linville | Dr. K. N. Salyer |
| Robert E. Barry | Hugh D. Lyon | Carl Scheben |
| W. T. Beard | Norris McPherson | Leon J. Shaikun |
| Robert E. Beatty | Dr. Wm. C. Mann | Faust Y. Simpson |
| H. M. Brock, Jr. | Ed. Marcum | Clyde Smith |
| Sherman E. Carter | C. C. May | Otto Smither |
| C. L. Clayton | J. Milton Mefford | Charles L. Spilman |
| M. A. Cornett | D. J. Moore | James D. Stacey |
| Guthrie F. Crowe | J. Lee Moore | R. C. Stephenson |
| Pink G. Curd | C. E. Montgomery | Egbert Taylor |
| T. P. Fitzpatrick | E. R. Morlidge | Roy L. Taylor |
| W. W. Freeman | C. Sid Nabb | John L. Trumbo |
| Joseph J. Grace | Robert Nicholas | J. Wood Vance |
| P. Bert Hall | H. C. Patterson | S. J. Wagner |
| Joe Higgins | B. W. Porter | Harry Walters |
| E. R. Hilton | Kleber F. Price | H. A. Ward |
| Clyde S. Howard | L. Allen Rhoads | Henry Ward |
| Chas. O. Humston | Dr. J. J. Rice | H. L. Waterfield |
| Crow Jarvis | Wade H. Riley | E. Reed Wilson |
| William L. Jones | Dr. M. M. Robinson | |
| W. A. Lamkin | Byron H. Royster | —61 |

Those who voted in the negative were—

| | | |
|---|---|---|
| John Henry Cox | Joe B. Jarboe, Jr. | L. D. Moore |
| Fuller Harding | A. L. Love | Coy Nevitt —6 |

Resolved that the title thereof be as aforesaid.

Mr. Rhoads moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 233. An Act to repeal, amend and re-enact Sec. 2022, Carroll's Kentucky Statutes, Baldwin's 1936 Edition.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Section 2022, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be repealed, amended and re-enacted so that when amended and re-enacted, the said section shall read as follows:

"If the minor is fourteen years of age or older, he may, in the presence of the Court, or by a writing signed in the presence of the Judge, after privy examination, nominate his own guardian, or if such minor be absent from the county, he may after privy examination, in the presence of the Judge of the County or Probate Court where he is, or if he be in the military or naval services of the United States, after privy examination, in the presence of a superior commanding officer, by a writing signed in the presence of such Judge or superior officer nominate his own guardian provided that such Judge or such commanding officer certifiy to the Judge of the County Court having jurisdiction to appoint a guardian for such ward that said writing was signed by such minor and after privy examination in the presence of such Judge or officer; but if the person so nominated is not approved by the Court, or if the minor, after summons, fails to nominate a suitable person,

or if the minor resides out of the State, or if the testimentary guardian fails for three months to qualify, the Court may appoint a guardian of its own selection."

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 387.050, and shall thereafter be treated as an amendment to KRS 387.050 rather than an amendment to § 2022 of Carroll's Statutes.

Mr. Ray Stephenson moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | John Henry Cox | Chas. O. Humston |
| George P. Anderson | Guthrie F. Crowe | Crow Jarvis |
| Henry Arrowood | Pink G. Curd | William L. Jones |
| Robert E. Barry | Harry W. Ennis | John S. Juett |
| W. T. Beard | T. P. Fitzpatrick | W. A. Lamkin |
| Robert E. Beatty | W. W. Freeman | A. L. Love |
| H. M. Brock, Jr. | Joseph J. Grace | Harry K. Lowman |
| Gus A. Brooks | P. Bert Hall | Hugh D. Lyon |
| Sherman E. Carter | Fuller Harding | H. McCartney |
| C. L. Clayton | Joe Higgins | Cary McDevitt |
| T. Fowler Combs | E. R. Hilton | Norris McPherson |
| M. A. Cornett | Clyde S. Howard | Dr. Wm. C. Mann |

| | | |
|---|---|---|
| Ed. Marcum | Kleber F. Price | James D. Stacey |
| J. Milton Mefford | James E. Quill | R. C. Stephenson |
| D. J. Moore | L. Allen Rhoads | C. W. Taylor |
| L. D. Moore | Dr. J. J. Rice | Egbert Taylor |
| C. E. Montgomery | Wade H. Riley | Roy L. Taylor |
| F. E. Morancy | Dr. M. M. Robinson | John L. Trumbo |
| E. R. Morlidge | Byron H. Royster | J. Wood Vance |
| C. Sid Nabb | Dr. K. N. Salyer | S. J. Wagner |
| Coy Nevitt | Carl Scheben | Harry Walters |
| Robert Nicholas | Leon J. Shaikun | H. A. Ward |
| H. C. Patterson | Faust Y. Simpson | Henry Ward |
| Paul Pelfrey | Otto Smither | E. Reed Wilson |
| B. W. Porter | Charles L. Spilman | —74 |

Resolved that the title thereof be as aforesaid.

Mr. Ray Stephenson moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 237. An Act relating to persons who solicit or sell insurance other than life.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The name and address of employees, solicitors, salesmen or agents of mutual companies other than life, and reciprocal or interinsurance exchanges engaged in the solicitation or sale of insurance, shall be forwarded on or before November 1 of each year by such mutual company or interinsurance exchange to the Director of Insurance of the

State of Kentucky together with a fee of three dollars for each such employee, solicitor or agent, and, upon receipt thereof, the Director of Insurance shall issue to each such person a license certifying that such person is the authorized representative of the company or exchange supplying him with the name of such person, and no such representative shall solicit or sell insurance in this state until possessed of such license which shall expire on the first day of November in each year; provided, that such license may be refused or revoked by the Director of Insurance in such manner and to the extent provided in Section 762a-14d and Section 762a-14e; none of the provisions of this Act shall apply to assessment or co-operative associations or companies or their agents, servants or employees or representatives.

The penalty for failure to comply with this Act shall be the same as provided in section 762a-20c.

Section 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, the numbers "subsection (3) of KRS 298.150 and subsection (1) of KRS 298.990" shall be substituted for "section 762a-20c" in section one of this Act, and the number of "KRS 298.220" shall be substituted for "Section 762a-14d and Section 762a-14e" in Section (1) of this Act.

Mr. Barry moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Chas. O. Humston | L. Allen Rhoads |
| George P. Anderson | Crow Jarvis | Dr. J. J. Rice |
| Henry Arrowood | William L. Jones | Wade H. Riley |
| Robert E. Barry | W. A. Lamkin | Dr. M. M. Robinson |
| W. T. Beard | A. L. Love | Byron H. Royster |
| Robert E. Beatty | Harry K. Lowman | Dr. K. N. Salyer |
| Douglas T. Bolling | Hugh D. Lyon | Carl Scheben |
| H. M. Brock, Jr. | H. McCartney | Leon J. Shaikun |
| Gus A. Brooks | Cary McDevitt | Faust Y. Simpson |
| Sherman E. Carter | Norris McPherson | Otto Smither |
| C. L. Clayton | Dr. Wm. C. Mann | Charles L. Spilman |
| T. Fowler Combs | Ed. Marcum | James D. Stacey |
| Oris Cooper | J. Milton Mefford | R. C. Stephenson |
| M. A. Cornett | D. J. Moore | C. W. Taylor |
| John Henry Cox | J. Lee Moore | Egbert Taylor |
| Guthrie F. Crowe | L. D. Moore | Roy L. Taylor |
| Pink G. Curd | C. E. Montgomery | John L. Trumbo |
| Dr. J. A. Duff | E. R. Morlidge | Erna E. Tyra |
| Harry W. Ennis | C. Sid Nabb | J. Wood Vance |
| T. P. Fitzpatrick | Coy Nevitt | S. J. Wagner |
| Joseph J. Grace | Robert Nicholas | C. R. Walden |
| Joe Higgins | Paul Pelfrey | H. A. Ward |
| E. R. Hilton | B. W. Porter | Henry Ward |
| Clyde S. Howard | Kleber F. Price | H. L. Waterfield |
| Jerry F. Howell | James E. Quill | E. Reed Wilson |

—75

Resolved that the title thereof be as aforesaid.

Mr. Barry moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Beard of the Committee on Enrollment reported that they had examined and found to be correctly enrolled, a bill entitled:

S. B. 38. An Act providing that indexes to county records which have been prepared by W. P. A. may be adopted by county court.

Thereupon all other business was suspended, said bill was read at length and compared in open session and found to be correctly enrolled, and thereupon the Speaker, in open session and in the presence of the House, affixed his signature thereto.

Ordered that said bill be delivered to the Enrolling Clerk of the Senate.

At the instance of the Committee on Rules, the House took up for consideration from the Clerk's desk, a bill entitled:

H. B. 21. An Act relating to embezzlement, conversion, misappropriation or misapplication of the sinking fund in cities of the Second Class.

With an amendment thereto by way of Substitute therefore as proposed by the Senate.

(For bill see House Journal of January 20)

Said Substitute as proposed and adopted by the Senate is as follows, viz.:

An Act relating to the financial administration of cities.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 4281u-6 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

"This Act shall not apply to cities of the first class."

Section 2. Section 3175 of Carroll's Kentucky Statutes, 1936 edition is repealed.

Section 3. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, then, upon the taking effect of the Kentucky Revised Statutes, section one of this Act shall stand repealed; subsection (1) of KRS 92.340 shall stand repealed; subsection (2) of KRS 92.340 shall be amended to read as follows:

"If, in any city of the second to sixth class, any city tax revenue is expended for a purpose other than that for which the tax was levied or the license fee imposed, each officer, agent or employe who, by a refusal to act, could have prevented the expenditure, and the members of the city legislative body who voted for the expenditure, shall be jointly and severally liable to the city for the amount so expended. The amount may be recovered of them in an action upon their bonds, or personally. The city attorney shall prosecute to recovery all such actions. If he fails to do so for six months after the money has been expended, any taxpayer may prosecute such action for the use and benefit of the city. A recovery under this subsection shall not bar a criminal prosecution under subsection (5) of KRS 92.990. Any indebtedness contracted by a city of the second to sixth class in violation of this subsection or of KRS 92.330 or 92.360 shall be void, the contract shall not be enforceable by the person with whom made, the city shall never assume the same, and money paid under any such contract may be recovered back by the city."

Subsection (1) of KRS 92.350 shall be amended to read as follows:

"All money and securities belonging to any separate fund or sinking fund of a city of the second to sixth class shall be kept in a separate account, and the custodian of the fund shall make a semiannual statement of the fund to the city legislative body at its first regular meeting in January and July each year."

Subsections (2) and (4) of KRS 92.360 shall be amended to read as follows:

"(2) The legislative body of any city of the second to sixth class shall not, in any year, expend any money in excess of the amount levied and collected for that year or levied, collected or appropriated for any special purpose, and shall not expend, or permit or authorize to be expended, any city revenue raised by taxes or license fees, for any purpose other than that specified in the ordinance levying the tax or imposing the license fee."

"(4) Where the special object or purpose for which a tax was levied by any city of the second to sixth class has been accomplished, any amount remaining in the special fund for that tax shall become a part of the general revenue fund of the city."

And KRS 92.280, 92.330, 92.340, 92.350, 92.360 and 92.990 shall remain in full force and effect except as above provided.

Said Substitute was then agreed to.

Mr. Scheben moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Said bill was then passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Rell Bevins | Oris Cooper |
| George P. Anderson | H. M. Brock, Jr. | M. A. Cornett |
| Henry Arrowood | Gus A. Brooks | Guthrie F. Crowe |
| W. T. Beard | Sherman E. Carter | Dr. J. A. Duff |
| Robert E. Beatty | T. Fowler Combs | Forest C. Easley |

| | | |
|---|---|---|
| T. P. Fitzpatrick | Ed. Marcum | Carl Scheben |
| W. W. Freeman | C. C. May | Leon J. Shaikun |
| Joseph J. Grace | J. Milton Mefford | Faust Y. Simpson |
| P. Bert Hall | D. J. Moore | Clyde Smith |
| A. G. Hamilton, Jr. | L. D. Moore | Otto Smither |
| Joe Higgins | C. E. Montgomery | Charles L. Spilman |
| E. R. Hilton | F. E. Morancy | James D. Stacey |
| Clyde S. Howard | E. R. Morlidge | R. C. Stephenson |
| Chas. O. Humston | C. Sid Nabb | C. W. Taylor |
| Joe B. Jarboe, Jr. | Coy Nevitt | Egbert Taylor |
| Crow Jarvis | Robert Nicholas | Roy L. Taylor |
| William L. Jones | H. C. Patterson | Rev. H. Tinsley |
| W. A. Lamkin | Paul Pelfrey | John L. Trumbo |
| H. W. Linville | B. W. Porter | S. J. Wagner |
| A. L. Love | Kleber F. Price | H. A. Ward |
| Hugh D. Lyon | Dr. J. J. Rice | Henry Ward |
| H. McCartney | Wade H. Riley | H. L. Waterfield |
| Cary McDevitt | Dr. M. M. Robinson | E. Reed Wilson |
| Norris McPherson | Byron H. Royster | |
| Dr. Wm. C. Mann | Dr. K. N. Salyer | —73 |

Resolved that the title thereof be as amended.

Mr. Scheben moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

At the instance of the Committee on Rules, the House took up for consideration from the Clerk's desk, a bill entitled:

H. B. 117. An Act authorizing and empowering cities to acquire, erect, maintain and operate a system of parking meters.

With amendments thereto as proposed and adopted by the Senate.

(For bill see House Journal of January 29)

Said amendments as proposed and adopted by the Senate are as follows, viz.:

1. Amend H. B. 117 in Senate by inserting the words "of the second class" between the words "city" and "may" in line 1 of Section 1 of the printed bill.

2. Amend H. B. 117 in Senate by inserting the words "of second class" between the words "city" and "from" on line 2 of Section 3 of the printed bill.

3. Amend the title to H. B. 117 in Senate by inserting the words "of the second class" between the words "cities" and "to" in line 1 of the title of the printed bill.

Said amendments were then concurred in.

Said bill was then passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | John Henry Cox | Clyde S. Howard |
| Henry Arrowood | Guthrie F. Crowe | Chas. O. Humston |
| Robert E. Barry | Dr. J. A. Duff | Joe B. Jarboe, Jr. |
| W. T. Beard | Forest C. Easley | Crow Jarvis |
| Robert E. Beatty | Harry W. Ennis | William L. Jones |
| Rell Bevins | T. P. Fitzpatrick | John S. Juett |
| Douglas T. Bolling | W. W. Freeman | H. W. Linville |
| H. M. Brock, Jr. | Joseph J. Grace | A. L. Love |
| Gus A. Brooks | P. Bert Hall | Harry K. Lowman |
| Sherman E. Carter | A. G. Hamilton, Jr. | Hugh D. Lyon |
| C. L. Clayton | Joe Higgins | H. McCartney |
| M. A. Cornett | E. R. Hilton | Cary McDevitt |

| | | |
|---|---|---|
| Norris McPherson | Paul Pelfrey | R. C. Stephenson |
| Dr. Wm. C. Mann | B. W. Porter | C. W. Taylor |
| Ed. Marcum | Kleber F. Price | Egbert Taylor |
| J. Milton Mefford | Dr. J. J. Rice | Roy L. Taylor |
| D. J. Moore | Dr. M. M. Robinson | John L. Trumbo |
| J. Lee Moore | Byron H. Royster | S. J. Wagner |
| L. D. Moore | Dr. K. N. Salyer | Harry Walters |
| C. E. Montgomery | Carl Scheben | H. A. Ward |
| E. R. Morlidge | Leon J. Shaikun | Henry Ward |
| C. Sid Nabb | Faust Y. Simpson | H. L. Waterfield |
| Coy Nevitt | Clyde Smith | E. Reed Wilson |
| Robert Nicholas | Charles L. Spilman | |
| H. C. Patterson | James D. Stacey | —73 |

Resolved that the title thereof be as amended.

Mr. Morlidge moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

At the instance of the Committee on Rules, the following bills and resolutions were introduced, viz.:

By Mr. Crowe.

H. B. 319. An Act providing that the Clerk of the Court in which an inquest proceeding is held for the adjudication of an idiot, feeble-minded, epileptic or insane person, or a person incompetent to manage his estate, shall file an attested copy of the judgment of said Court in the office of the County Clerk and requiring the County Clerk to index same and fixing penalties therefor.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

It shall be the duty of the Clerk of the Court, immediately upon the rendering of a judgment in an inquest proceeding adjudging a person to be an idiot, feeble-minded, epileptic or insane, or incompetent to manage his estate or within not more than twenty-four hours thereafter, to file an attested copy of said judgment in the office of the Clerk of the County Court of the County in which said judgment was rendered, which copy shall be filed and not recorded by the County Clerk but indexed in the book in which notices of action and encumbrances are indexed. For each filing the County Clerk shall receive a fee of fifty cents which shall be taxed as costs of the inquest by the Clerk of the Court filing same; provided, however, should the person adjudged be without any estate, or a pauper, the County Clerk shall receive, file and index said judgment without the payment of any fee.

Unless a copy of said judgment is filed in said County Clerks' office, the judgment shall not constitute notice to any subsequent bona fide purchaser for value, mortgagee, or encumbrancer.

Any clerk or deputy clerk of any Court charged with the duty provided for in this Act, who fails to perform said duty shall be fined not less than twenty-five ($25.00) dollars nor more than fifty ($50.00) dollars for each offense.

By Mr. Scheben.

H. B. 320. An Act to provide for the condemnation of property by cities of the second class during time of war.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. During such time as a state of war may exist, pursuant to the declaration of the Congress of the United States of America, The Board of Commissioners or other governing body of any city of the second class may, if the acquisition of land be material to the national defense, or of any governmental project directly related to the war effort, by declaring such fact by resolution, order the condemnation of said land, either within or out of said city, pursuant to the provisions of Sections 3095 to 3095g, with the following exceptions:

(1) The judge shall, upon the filing of a petition, grant possession of said land by interlocutory judgment rendered immediately after the filing of the report by the commissioners duly appointed pursuant to the provision of Section 3095a. Prior to the rendering of such interlocutory judgment, the city shall be required to pay into court the sum awarded by the commissioners in their report. The court may, after having rendered said interlocutory judgment upon motion by the city, cause its commissioners to execute to the city a deed of conveyance which deed shall be executed as nearly as practicable in accordance with the rules governing the conveyance of property by commissioners when sold under order of court.

(2) The commissioners appointed pursuant to Section 3095a may report at any time after summons has been duly issued or warning order attorney appointed, and the court shall thereafter award possession to the city by interlocutory judgment, as hereinbefore set out. Thereafter, either party may, before answer day, file written exceptions to said report, as provided in Section 3095c, except that the city's exceptions, if any, shall be made prior to the entry of said interlocutory judgment. The sum not in controversy shall be paid or tendered to the parties defendant by the court prior to the entry of said interlocutory judgment.

(3) Before rendering the interlocutory judgment, the court shall require the city to execute a bond, with surety to

be approved by the court, conditioned upon the city paying to the parties defendant the difference between the sum paid into court and that which may be thereafter determined by a jury to be the value of the property and incidental damages, if any, if the parties defendant except to the report of the commissioners, unless the city shall have sufficient funds duly appropriated and on deposit to pay any money judgments that may be thereafter given against it, and such fact be alleged in its petition.

(4) The city shall not be permitted to abandon the proceeding after having obtained title to said land unless none of the parties defendant will be materially prejudiced thereby.

Section 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, the references in section one of this Act to "Sections 3095 to 3095g, 3095a and 3095c" shall be admitted as referring to KRS 94.680 to 94.720, 94.690 and 94.700, respectively.

Section 3. WHEREAS, a state of war exists and the development and completion of projects material or directly related to the war effort depends upon the immediate acquisition of the possession of land required for such projects, an emergency is declared to exist and this act shall take effect upon its passage and approval by the Governor.

By Mr. Juett.

H. B. 321. An Act relating to automobiles and motor vehicles.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. This act shall be known and may be cited as the Motor Vehicle Title Law.

Section 2. (a) The words "Vehicle", "Motor Vehicle" and "Automobile" shall have the same meaning as

that given in subsection (a), section 2739g-1, Carroll's Kentucky Statutes, 1938 supplement as same may be amended unless the context requires otherwise;

(b) "Department" means the Department of Revenue;

(c) "Clerk" means County Court Clerk of a county of this Commonwealth;

(d) "Lien" means, unless the context requires otherwise, any encumbrance against an automobile not dependent on possession, and includes, but is not limited to, chattel mortgages, conditional sales contracts and similar instruments;

(e) "A Certificate of Title" is a document executed by the County Court Clerk, which contains among other things a certification of the ownership of a particular automobile and an abstract of all liens against same recorded after March 1, 1943, and shall be referred to in this act as a certificate.

Section 3. On and after March 1, 1943, no person shall sell, transfer or otherwise dispose of a motor vehicle without delivering to the purchaser or transferee thereof a certificate of title with such assignments thereon as may be necessary to show title in the purchaser or transferee, or purchase or otherwise acquire title to a motor vehicle unless he shall obtain a certificate of title for the same. Provided, however, dealers and manufacturers complying with the provisions of section 2739g-6, Carroll's Kentucky Statutes, 1936 Edition, need not apply for a certificate for new vehicles in stock or used vehicles acquired for stock purposes, but upon transfer of same, may assign any existing certificate held by such dealer to the transferee, or if no such certificate exists, the dealer shall over his signature briefly note such fact of nonexistence and the reasons therefor, including name, address and occupation of the person from whom the vehicle was obtained, and such other information as the Department may require, on the application for an initial certificate which is made by the purchaser or transferee. The application shall

be made in duplicate, one of which shall be retained by the Clerk and the other by the purchaser. Said application when signed by the dealer shall be a conveyance of title and also a warranty thereof, unless it is expressly stated to the contrary therein. A new certificate must be obtained within five (5) days after the sale or transfer. When ownership shall pass by judicial decree or sale, or by operation of law, or by repossession, the new owner shall be entitled to a certificate upon presentation of appropriate evidence thereof and payment of the fee prescribed therefor. A certified copy of the judgment or court order shall be evidence of title in cases where title or ownership changes by reason of court proceedings.

Section 4. Whenever any automobile which has been previously registered changes ownership, the registration plates shall remain upon such automobile as a part thereof until the expiration of the registration year, subject, however, to the following provisions:

(a) No person acting for himself or another shall offer for sale or trade any such automobile without then and there having in his actual physical possession the clerk's receipt for the registration fee for the current year and the certificate.

(b) No person shall sell or trade any such automobile without transferring by endorsement of the owner and delivering to the purchaser the clerk's receipt for the registration fee for the current year and the certificate.

(c) No person acting for himself or another shall buy or trade for any such automobile without receiving the clerk's receipt for registration fee for the current year and the certificate, endorsed as provided for above.

(d) Upon such change of ownership the purchaser or new owner, except dealers mentioned in section 3 hereof, shall within five (5) days apply to the clerk for a certificate of title; the application shall be accompanied by the endorsed registration receipt and the endorsed certificate. The clerk shall retain and file the endorsed certificate, if satisfied that the ap-

plicant is the owner of the automobile, and issue a certificate to him and return the endorsed receipt to him; provided that applicant pays a fee of one dollar and fifty cents ($1.50) which shall be distributed as follows: fifty cents (50c) to the clerk for his services, fifty cents (50c) to the department to be used for administrative purposes, and the remaining fifty cents (50c) to the road fund of the Department of Highways. If, however, the purchaser junks or otherwise renders the automobile unfit for future use as such, he shall be relieved of the duty of transferring registration and procuring a new certificate as provided in this section by the immediate delivery of registration plates, endorsed receipt and endorsed certificate to the clerk, whereupon the clerk shall immediately return said plates, receipt and endorsed certificate to the Department, and for these services the purchaser shall pay the clerk the sum of fifty cents (50c).

Section 5. Whenever any person shall register an automobile for the year 1943 or thereafter register for the first time an automobile in this Commonwealth, except foreign trucks and busses engaged in interstate commerce, he shall at the same time and place apply for and receive a certificate before maintaining and possessing same in a usable condition or operating same upon the highways of this Commonwealth. If a nonresident buys a new car in this Commonwealth not previously registered in this Commonwealth, he may obtain a certificate on proper application only from the clerk of the county where the transaction is consummated. Any person obtaining a certificate in the manner provided in this section shall pay a fee of thirty cents (30c) fifteen cents (15c) of which shall go to the clerk for his services and fifteen cents (15c) to the Department of Revenue to be used in administering this act.

Section 6. A person applying for a certificate shall set out in the application:

(a) Description of the automobile;

(b) The motor number;

(c) Such other relevant information as the department may require.

The application shall be sworn to before the clerk or other officer authorized by law in this Commonwealth to administer oaths.

If a certificate has been previously issued, the application must be accompanied by it properly endorsed and same shall be evidence of ownership; if no certificate has been previously issued but the automobile has been properly registered, the application shall be accompanied by the registration receipt and same shall be evidence of ownership; if the automobile is brought into this state from another state, the application shall be accompanied by a proper certificate of title of the other state if such state has a Certificate of Title Law, and same shall be evidence of ownership, or if such other state does not have a Certificate of Title Law, the application shall be accompanied by a bill of sale or dealer's invoice or other satisfactory proof of ownership describing the vehicle together with the last or current registration receipt and same shall be evidence of title. However, none of the above instruments shall be conclusive evidence of title. Any dealer who sells an automobile shall have the right to obtain the certificate for the purchaser upon application signed by the purchaser. The clerk shall retain and file any endorsed certificate and return the other documents to the owner.

Section 7. The clerk shall examine the application; and, if satisfied that the applicant is owner of the automobile and that the application is in proper form, the clerk shall cause to be issued to the owner a certificate over his official signature, which may be by his deputy or agent.

The certificate shall contain:

(a) Description of the automobile;

(b) The motor number.

(c) A short abstract of any lien thereon, if required under the provisions of this act, which shall include, but will

not be limited to, the amount of the lien, the date when due, name of the lienee, the date when the lien was created and the date of the entry or recording thereof;

(d) The name of the previous endorser or assignor of any such certificate and the kind of title conveyed; and

(e) Such other information as the department may require.

Section 8. On and after March 1, 1943, any person retaining a first lien on an automobile at the time he sells or transfers it to another, shall have the right, upon presentation of the original lien instrument or a certified copy thereof to the clerk, to have an abstract thereof entered on the certificate and to receive from the clerk the certificate issued to the purchaser or owner, and any person having an unrecorded lien on an automobile for which a certificate has been issued may on and after March 1, 1943, upon presentation of the original instrument or a certified copy thereof to the clerk, have an abstract thereof entered on the copy of the certificate kept by the clerk. The original instrument or the certified copy shall be filed and recorded and disposed of in the manner now or hereafter provided by law for similar instruments. Any person recording a lien as provided in this section shall pay the clerk a fee of one dollar ($1.00) for his service.

Section 9. No abstract of any lien created after March 1, 1943, or offered for recording for the first time, at the time the owner is procuring a certificate or after he has procured same or should have done so, shall be noted in the chattel mortgage minute book provided for in section 523b-8, Carroll's Kentucky Statutes, 1936 edition, but shall be made only in the certificate. The clerk shall note the date when such abstract is placed in the certificate, and in the event more than one abstract is entered, the clerk shall note the date in such manner as to clearly show the order of time of entry.

Section 10. When a lien is abstracted and filed in the manner provided in this act, it shall be constructive notice of the existence of said lien, and said lien shall be preferred over

any subsequent mortgages, liens or encumbrances against said automobile other than those for taxes and those dependent upon possession, or any claims of subsequent creditors of the lienor or owner, and shall have priority over any lien of earlier date not previously recorded under the provisions of this act or the laws heretofore in force regarding the recording of liens.

Nothing in this act shall be construed as altering in any way the legal significance or effect of any such recordation made according to law prior to March 1, 1943.

If there be any inconsistency or variation between the certificate held by the clerk and the certificate held by the owner, the one held by the clerk shall be controlling.

Section 11. The general statutes of this Commonwealth applicable to liens shall continue to be in full force and effect, except as otherwise provided in this act. Any notation required to be placed in the chattel mortgage minute book referred to in section 9 of this act shall be entered in the copy of the certificate kept by the clerk in lieu of said books.

Section 12. If it appears that a certificate of title has been improperly issued, the Department may cancel same but such cancellation shall not affect the validity of any lien noted thereon.

Section 13. When any lien recorded in a certificate of title in the manner provided in this act is discharged or satisfied, the holder thereof shall have noted on the face of the certificate by the clerk a cancellation thereof, and if such lien holder has possession of the owner's certificate, he shall deliver same to the owner with a sworn statement over his signature that the lien has been satisfied.

Section 14. If a certificate be lost or destroyed, application may be made to the clerk of the county where such certificate was issued by the owner of the automobile or the holder of a lien thereon for a certified copy of same. Such application shall be signed and sworn to by the person making the same. Thereupon the clerk shall cause an exact duplicate

thereof to be issued if he is satisfied that the applicant is entitled to the same. The clerk shall be paid a fee of fifty cents (50c) by the applicant for each duplicate certificate issued by him. Said duplicate and all subsequent certificates in the chain of title originated by said certificate copy shall be plainly marked across their face "duplicate copy", and any subsequent purchaser of said automobile in the chain of title originated through such certified copy shall acquire only such rights in such automobile as the original holder of said duplicate himself had.

Section 15. Each owner of an automobile and each person mentioned as owner in the last certificate, when such motor vehicle is dismantled, destroyed, or changed in such manner that it is not the motor vehicle described in the certificate of title, shall surrender his certificate to the county clerk who issued the same and thereupon said county clerk shall, with the consent of any holders of any liens noted thereon, enter a cancellation upon his records and shall notify the Department of such cancellation. Upon cancellation of a certificate of title in the manner prescribed by this section, the county clerk and the Department of Revenue may cancel and destroy all certificates in that chain of title.

Section 16. Every sheriff and every police department or police officer in the Commonwealth shall make immediate report to the Department of theft or recovery of any automobile reported to him.

Section 17. This act shall be administered by the Department and the county clerk shall be the agent of the Department in carrying out the provisions of this act. The Department shall keep a record of the certificates by owner and motor number and shall have power to make such rules and regulations as are reasonably necessary to the administration and enforcement of this act.

Section 18. On and after January 1, 1943, no bill of sale for an automobile shall be required to be executed, notwithstanding the provisions of section 2739g-14 of Carroll's

Kentucky Statutes, 1936 edition, and section 2739g-14 of Carroll's Kentucky Statutes and this paragraph shall stand repealed as of March 1, 1943.

Section 2739g-13 of Carroll's Kentucky Statutes, 1936 edition, is hereby repealed and said repeal shall become fully effective on and after March 1, 1943. Prior to said time the repeal shall be effective only as to transfers of automobiles for which a certificate has been issued or should have been issued.

Section 19. To knowingly make a false statement in any instrument required to be executed by this act or to knowingly omit therefrom required information or to forge any such instrument, or to attempt to do any of said acts, is a felony and shall be punished by a fine of not exceeding five thousand dollars ($5,000) or imprisonment not exceeding five (5) years, or both. To operate, sell or transfer an automobile without complying with the provisions of this act, or to violate any other provision of this act for which no penalty is specifically provided by this act, is a misdemeanor and shall be punished by a fine of not exceeding five hundred dollars ($500) or imprisonment not exceeding six (6) months, or both.

Section 20. It shall be the duty of the clerk to report and remit each Monday to the Department all moneys collected during the previous week together with as many copies of each certificate as the Department may require issued by him during the same period. Upon failure of any clerk so to report and remit as herein provided for more than seven (7) days after the same is due, he shall be required to pay a sum equal to ten per cent (10%) of the amount of money due in addition thereto. All penalties due and collected under this provision shall be paid into the State Treasury as a part of the revenue collected under the provisions of this Act. He shall account to the Department for all certificates of title assigned to him at such time or times as the Department may direct.

Section 21. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, this Act shall be treated as repealing KRS 186.190 and 186.200 as of March 1, 1943, regardless of the date of enactment or taking effect of the Kentucky Revised Statutes.

Section 22. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, subsection (a) of section two of this Act shall stand repealed as of the effective date of the Kentucky Revised Statutes, and the following shall take effect in lieu thereof:

As used in this Act, unless the context requires otherwise:

(a) "Automobile" and "motor vehicle" shall have the same meaning as that given to "motor vehicle" in KRS 186.010 insofar as it applies to KRS 186.020 to 186.260.

Section 23. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, upon the taking effert of the Kentucky Revised Statutes:

The numbers "KRS 186.070 and 187.080" shall be substituted for "section 2739g-6, Carroll's Kentucky Statutes, 1936 edition," in section 3 of this Act; and

The number "KRS 382.670" shall be substituted for "section 523b-8, Carroll's Kentucky Statutes, 1936 edition," in section nine of this Act.

By Mr. Mefford.

H. B. 322. An Act relating to distilled spirits.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That any person or persons owning any distilled spirits which were manufactured prior to National Prohibition and upon which all Federal taxes have been paid shall have the right to withdraw same for his own personal use without the

payment of the Kentucky Consumer's Tax or any other excise taxes, and the proprietor of any free warehouse or of any distillery shall deliver such distilled spirits to the owner thereof.

Any person so owning such distilled spirits shall before the removal of same from any distillery or free warehouse execute an affidavit and file it with the Administrator of the Distilled Spirits Unit in the Department of Revenue to the effect that such distilled spirits will be used only for personal consumption and are not to be withdrawn for purposes of re-sale and will not be placed in the ordinary channels of trade.

Upon the execution and filing of this affidavit the Administrator of the Distilled Spirits Unit shall issue a permit for the withdrawal of the distilled spirits and the owner of such distilled spirits shall be entitled to the immediate possession thereof and the proprietor of any bonded warehouse or distillery shall deliver same directly to the owner.

If after withdrawing such distilled spirits any person sells same, or any part thereof, or places same in the ordinary channels of trade he shall be fined not less than Five Hundred ($500.00) Dollars nor more than Two Thousand ($2,000.00) Dollars or imprisoned for not less than thirty days nor more than sixty days, or both.

By Mr. Roy L. Taylor.

H. B. 323. An Act authorizing the creation of a County Veterans' Service Officer; prescribing the method of appointment; defining duties, and method of payment of salary.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The Fiscal Court of any County in the Commonwealth of Kentucky may create the position of Veterans'

Service Officer and elect, employ or appoint a veteran who was engaged in a war of the United States to hold said office for a term of two years. Such County Veterans' Service Officer shall advise with all citizens, residents of the County, who were at any time members of the military or naval services of the United States relative to any complaint made or problem submitted to him by them; prepare in proper form, present, and prosecute the claims of disabled ex-service men and women and their dependents with the United States Veterans' Administration and other federal or state agencies; secure and expedite action on said claims; keep in contact with the United States Veterans' Administration and the Kentucky Disabled Ex-Service Men's Board so that the status of any claim may be known at any time; continue to survey the County to make certain that no disabled veteran or his dependents are neglected; and perform such other duties as the Fiscal Court may direct.

Section 2. The compensation or salary of said County Veterans' Service Officer shall be fixed by the Fiscal Court of said county, and shall be payable out of the County levy in said County. The Fiscal Court may provide such County Veterans' Service Officer with clerical assistance and such other needs as will enable him to adequately perform his duties.

By Mr. Brock.

H. B. 324. An Act to amend section 98a-2 of the 1936 Edition of Carroll's Kentucky Statutes.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That section 98a-2 of the 1936 Edition of Carroll's Kentucky Statutes is amended so as to read as follows:

(1) The Court of Appeals of Kentucky shall make such rules and regulations as it deems proper fixing the moral

qualifications of applicants and standard of acquirements, academic, legal and official service to entitle them to admission to practice law in the courts of this Commonwealth.

(2) No applicant shall be under the age of twenty-one years, except that the Court of Appeals may, in its discretion, during the present National Emergency admit persons to practice law in the courts of this Commonwealth who are under the age of twenty-one years if such persons are within the age limits of the Selective Service Act and if such persons have met all the other requirements necessary for such admission.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of subsections (1) and (2) of KRS 30.030, and thereafter be treated as an amendment to subsections (1) and (2) of KRS 30.030 rather than an amendment to § 98a-2 of Carroll's Statutes.

§ 3. Whereas, many young men are now being called to service in the Army and Navy and whereas, many attorneys of this Commonwealth are now or will be in service in the Army and Navy, an emergency is hereby declared to exist and this Act shall become effective immediately upon its passage and approval by the Governor.

By Mr. Shaikun.

H. B. 325. An Act relating to intoxicating liquors.

Said bill is as follows, viz.:

*Be it Enacted by the General Assembly of the Commonwealth of Kentucky:*

It shall be unlawful for any brewer, distributor or retailer of malt beverages, holding a license as such from the Commonwealth of Kentucky, to transport, offer for sale or sell any malt beverages in bottle containers of a size and quantity in excess of thirty-two (32) liquid ounces.

Any person, firm or corporation who shall violate the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than $50.00 nor more than $500.00 for each offense, and the license of the person, firm or corporation shall be subject to suspension or revocation.

By Mr. Roy L. Taylor.

H. B. 326. An Act to exempt any corporation, society or organization, having no capital stock, for religious, charitable, educational, or any other lawful purpose from which no private pecuniary profit is derived from filing and recording fees, including the fees for process agent.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section I. Any corporation, society or organization, having no capital stock, for religious, charitable, educational, or any other lawful purpose from which no pecuniary profit is derived, or to be derived, shall be exempt from any fee for the filing and recording of a statement or statements designating an agent, or filing and recording each statement of change of agent or location of office.

Section 2. All laws or parts of laws in conflict herewith are hereby repealed.

By Mr. Freeman.

H. B. 327. An Act repealing and reenacting section 2380b-30, Carroll's Kentucky Statutes, 1936 Revised Edition, relating to the date when drainage assessments become delinquent; and a penalty is added thereto.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That section 2380b-30, Carroll's Kentucky Statutes, 1936 Revised Edition, is hereby repealed and reenacted so that when reenacted it shall read as follows:

2380-30. It shall be the duty of the sheriff or tax collector of each county in which lands or other property of any district organized under this act are situated, to receive the "collector's drainage assessment book" each year, and he is hereby empowered and it shall be his duty to promptly and faithfully collect the assessments which shall become due and payable on the lands and other property therein set out, and to exercise all due diligence in so doing. He is further directed and ordered to demand and collect such assessments at the same time that he demands and collects state and county taxes due on the same land and other property. Where any tract or part thereof has been divided or sold or transferred, the sheriff shall receive assessments on any part of any tract, piece or parcel of land or other property charged with such assessments and give his receipt accordingly and show therein upon what part of such land or property the assessment has been paid. The collector's drainage assessment book shall be the warrant and authority of the sheriff for making such demand and collection. The sheriff shall make due return of all "collector's drainage assessment books" each year to the secretary of the board of drainage commissioners issuing the same and shall pay over and account for all moneys collected thereon each year to the treasurer of said district at the same time when he pays over state and county taxes. If the assessment has not been paid to the sheriff or collector on any parcel of land or property described in the assessment register certified to him during the year for which said assessment was levied on or before the last day of February of the year immediately following the year for which said assessment was levied and became due, a penalty of six per centum (6%) shall auto-

matically attach thereto on and after said date, which shall be added to the assessment against such parcel or parcels of land on which the assessment has not been paid, to be collected by the sheriff in the same manner that the assessment is collected; and, unless so paid, the sheriff shall on the first day of the next January term of the county court in the county wherein said land or property assessed is located, sell said land or property or so much thereof as may be necessary to pay and satisfy such assessment, penalty and costs and expenses of selling the same; said sale shall be for cash. Before making any such sale he shall notify the owner of such land in writing that said land will be sold by posting a copy of such notice of sale on the land to be sold and at three other public and conspicuous places in the vicinity where said land is located, which notice shall contain the description that is given in the "district assessment register" on file in the county court clerk's office of his county, and it shall contain a statement of the amount of the assessment due on said land or property for such year, together with the amount of the penalty due thereon, and a statement of the costs and expenses of making such sale, which costs shall be five dollars. Said notice shall be posted for at least fifteen days immediately preceding the day on which it is to be sold, and a copy thereof shall likewise be posted for the same length of time at the courthouse door in the county where the land to be sold is situated. Said notice shall also be published in a newspaper published in the county where said land is located, if there be any newspaper so published in the county. If there is no newspaper published in said county, then the posting of the notices above provided for shall be deemed sufficient. The sales of land and other property by the sheriff for the assessments, penalties, costs and expenses of making sale shall be made in the same manner and have the same force and effect as sales of land or other property for state and county taxes, and subject to redemption by the owner within the time, on the terms, upon the penalties and

upon the same conditions that are now and may hereafter be provided by general law for the redemption of land or other property sold by the sheriff for state or county taxes. When any land or other property is sold for the assessment herein provided for, if no one will bid for and purchase and pay for such property so offered for sale, the amount of the assessment, penalty, interest and costs, including the costs for advertising such sale, it shall be the duty of the sheriff making such sale to purchase same for the board of drainage commissioners of the county where such drainage, levee or reclamation district, where same was established to which such assessment is due and owing, and he shall make report of such fact to the clerk of the county court of the county in which such lands or property is located, as required by law in such cases under sales to the state and county for state and county taxes. He shall also certify such facts in like manner to the secretary of the board of drainage commissioners of the county wherein such drainage, levee or reclamation district was organized, which report shall be received and kept by the secretary of such board and recorded by him in the general drainage record book so kept by him. The purchaser of any such lands or property at such sales shall take said property subject to the future assessments to be levied against said property for making the improvement. The purchaser of any land or property at such sales as herein provided shall acquire, have and hold the same estate, right, title, lien upon and interest in lands or property so purchased that purchasers of land or property acquire at sales of lands for state and county taxes, subject alone to the provisions of this act. If lands or other property sold by the sheriff for their assessments be not redeemed by the owner within the time allowed by law, the sheriff making such sale or his successor in office shall make, execute and deliver to the purchaser a deed of conveyance to the property sold as in cases where lands have been sold for state and county taxes, which deed shall have the same force and effect as sheriff's

deeds for state and county taxes. The right, title and interest in and lien upon lands acquired under a purchase of lands herein above provided for at sheriff's sales may be enforced in any court of equity having jurisdiction under the general laws of this Commonwealth by the purchaser of such land, including the board of drainage commissioners, who shall purchase same at any such sheriff's sale above provided for herein.

By Mr. Freeman.

H. B. 328. An Act relating to pumps and measuring devices dispensing petroleum products.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

1. (a) The term "petroleum products" as used in this Act shall mean gasoline, kerosene, and lubricating oils.

(b) The term "Commissioner" shall mean the Commissioner of Agriculture, Labor and Statistics.

2. The tolerances to be allowed in excess or deficiency on all pumps dispensing gasoline or kerosene shall be the values shown in the following table. Provided, however, that the tolerances on all new measuring pumps dispensing gasoline or kerosene shall be one-half of the values given; and provided further, that such reduced tolerances shall also be applied to all devices which are being retested after having been found inaccurate and subsequently adjusted or repaired.

| DELIVERY | TOLERANCE |
|---|---|
| *Gallons* | *Cubic Inches* |
| 1 | 3 |
| 2 | 4 |
| 3 | 5 |
| 4 | 6 |
| 5 | 7 |

For each additional gallon, add one cubic inch.

3. The Commissioner or his agents shall test, from time to time, the pumps dispensing gasoline or kerosene and all measuring devices used in dispensing lubricating oils. All pumps found to be giving accurate measure, as defined in Section 2 hereof, may be officially sealed in a way that the adjusting device cannot be altered without breaking the seal. The proprietor of any pump that is found to be measuring inaccurately shall be instructed by the agent of the Commissioner to make immediate adjustment of such pump so that is accurate. After the adjustments have been made, the device may be officially sealed in the same manner as provided for sealing devices found originally accurate. It shall be unlawful for a pump or measuring device found to be measuring inaccurately to be used for vending until such time as the pump or measuring device has been adjusted to where it gives accurate measure.

It shall be unlawful for any person to break a seal applied by the Commissioner or his agents without first securing the consent of the Commissioner or one of his agents, except where a pump is found to be measuring inaccurately a qualified pump mechanic may be called to adjust pump, in which event the Commissioner shall be notified in writing immediately.

4. This Act does not prohibit cities from enforcing ordinances regulating weights and measures, heretofore or hereafter enacted, not in conflict with this Act or the regulations of the Department, nor from employing city sealers of weights and measures.

5. That any person, firm, or corporation who shall knowingly violate any of the provisions of this Act shall be guilty of a misdemeanor and subject to a fine of not less than Twenty-Five Dollars ($25.00) nor more than Two Hundred Dollars ($200.00) for each offense.

By Mr. McPherson.

H. B. 329. An Act granting and confirming in the Court of Appeals and other courts power to regulate pleading, practice and procedure in the courts.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1: The Court of Appeals may make and promulgate rules regulating pleading, practice and procedure in all courts so far as the rules do not abridge, enlarge, or modify the substantive rights of any litigant. The rules shall take effect three months after their promulgation.

Section 2: All statutes now existing that relate to pleading, practice, and procedure in the courts, and that do not affect the substantive rights of litigants, shall from and after the passage of this Act have force and effect only as rules of Court, and shall remain in force until modified or rescinded by rules made and promulgated by the Court of Appeals.

Section 3: Circuit courts may formulate rules for the conduct of their own business, supplementary to, and not conflicting with the rules made by the Court of Appeals or with any statute; but the rules shall not become effective until approved by the Court of Appeals.

By Mr. Quill.

H. B. 330. An Act relating to the taxation of aviation motor fuel.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section one. Tax paid pursuant to the provisions of section 4281g-1 et seq. of Carroll's Kentucky Statutes, 1936 edition, upon liquid fuel designed for use in aircraft motors and used in the operation of aircraft engaged in the transportation of persons and property in interstate commerce on regularly scheduled flights may be refunded. No tax shall be refunded except that paid upon such fuel used exclusively in such aircraft motors.

Section two. No person shall be entitled to a refund hereunder unless he shall have first filed with the Department of Revenue a bond with approved corporate surety in an amount of one thousand dollars ($1,000) conditioned upon faithful compliance with this Act and upon the payment to the Commonwealth of any refunds to which he was not entitled.

Section three. Applications for refund shall on or before the fifteenth of each month be made to the Department of Revenue on forms and in the manner prescribed by it for the refund of tax paid on aviation motor fuel used during the preceding month. Each application for a refund shall show the number of gallons of aviation motor fuel purchased during the preceding month; the date and quantity of each purchase; the vendor from whom such fuel was purchased; the number of gallons on which refund is claimed; and such other information as the Department of Revenue may require. The application shall be made under oath.

The Department of Revenue shall audit the application and make such other investigation as it deems necessary to determination whether it constitutes a proper claim. When the Department of Revenue is satisfied that a refund is proper, it shall authorize the amount of tax paid to be refunded as other refunds are made and the amount refunded shall be deducted from current gasoline tax receipts.

Section four. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, upon

the taking effect of the Kentucky Revised Statutes, the numbers "KRS 138.210 to 138.340" shall be substituted for "4281g-1 et. seq" in section one of this Act.

By Mr. Jones.

H. Res. 62. JOINT RESOLUTION appropriating from the General Fund of the Commonwealth of Kentucky, $69.02, to pay a claim for services rendered by W. O. Mitchell in performance of his duties as sheriff of Caldwell County.

Said resolution is as follows, viz.:

WHEREAS, Stanley McCarty, a fugitive from justice, wanted in Princeton, Kentucky, for child desertion, was arrested on July 10, 1941, and detained by the authorities of Detroit, Michigan; and

WHEREAS, W. O. Mitchell in the performance of his duties as sheriff of Caldwell County, on his own expense, personally traveled to Detroit, Michigan, and conveyed Stanley McCarty of Princeton, Kentucky; and

WHEREAS, W. O. Mitchell personally incurred expenses totaling $69.02.

*Be it resolved by the General Assembly of the Commonwealth of Kentucky:*

The sum of $69.02 is hereby appropriated from the General Fund of the Commonwealth of Kentucky, and the Department of Finance shall draw its warrant for the amount upon the State Treasurer in favor of W. O. Mitchell.

By Mr. Salyer.

H. Res. 63. Resolution for the benefit of Doyle Hogg,

ex-sheriff of Letcher County, Kentucky, to reimburse him for expenses incurred and services rendered the Commonwealth of Kentucky in the year 1940 in going from Whitesburg, Kentucky to Spartanburg, South Carolina to return to Letcher County Kentucky, one Charlie Stacy, a fugitive from justice.

Said resolution is as follows, viz.:

WHEREAS, in the month of December, 1940, one Charlie Stacy, a fugitive from justice, and who stood indicted in Letcher County, Kentucky upon the charges of murder and rape, was arrested in Spartanburg County, South Carolina, and was being held by the Sheriff of said county for the authorities of Letcher County, Kentucky, upon said charges, and Whereas, the said Charlie Stacy waived extradition from South Carolina to the State of Kentucky upon said charges, and whereas, Doyle Hogg, Sheriff of Letcher County went from Whitesburg, Kentucky to Spartanburg, South Carolina, and returned said fugitive to Whitesburg, Kentucky, and lodged him in the jail of Letcher County under said indictments, and whereas, the said Doyle Hogg has not been reimbursed for his expenses in going from Whitesburg, Kentucky to Spartanburg, South Carolina, and returning said fugitive, and his expenses in going and returning said prisoner to Kentucky by the route most usually traveled, being as follows:

| | |
|---|---|
| Doyle Hogg—Traveling 368 miles each way, or a total of 736 miles @ 6c per mile | $44.16 |
| To Transportation for said Stacy 368@1½c | 5.52 |
| Lodging and meals for self and fugitive | 4.50 |
| Total | $54.18 |

And Whereas, the said Doyle Hogg did not have sufficient time to obtain from the Governor of Kentucky authorization to return said fugitive to Kentucky, on account of the authorities in South Carolina being able to hold said Stacy for a

period of sixteen (16) hours after the Sheriff of Letcher County, Kentucky was notified of his detention, now therefore,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That the Commissioner of Finance be and he is hereby directed to draw his warrant on the State Treasurer in favor of Doyle Hogg, ex-sheriff of Letcher County, for the sum of FIFTY FOUR DOLLARS and EIGHTEEN CENTS ($54.18), in full payment of his expenses and services rendered as aforesaid, which warrant shall be payable out of any funds now in the hands of said Treasurer unappropriated.

By Mr. Cooper.

H. Res. 64. RESOLUTION authorizing Mattie E. Combest and Mabel Wesley, or either of them, to sue the State Highway Commission and the Commonwealth of Kentucky, or either.

Said resolution is as follows, viz.:

WHEREAS, The State Highway Commission, during the years 1928 and 1929, reconstructed the state highway leading from Liberty in Casey County to Dunville in Casey County, and being part of state highway No. 35, and

WHEREAS, In the reconstruction of same along by, and through, the farm of Mattie E. Combest and Mabel Wesley, said Commission by its agents, servants and employees, raised the grade of said highway and changed and deepened the drainage ditches, thereby changing and diverting the natural flow of waters, and

WHEREAS, In the reconstruction of said highway as

aforesaid, it removed a culvert or bridge that carried the water of a branch across and under said highway and replaced same with metal pipes of insufficient capacity to carry said water, and

WHEREAS, And by reason of the raising of said grade, deepening the drainage ditches, changing and diverting the natural flow of said waters, and the removal of said bridge and culvert and replacing same with metal pipes of insufficient capacity to carry the waters during rains, all of which caused the waters to back up in the yard and under the dwelling house of said Combest and Wesley, and stand for days therein and thereunder, causing the sills, and sleepers and floors to rot and decay and forcing the occupants of said house to wade the waters going to and from same, and further, causing the waters to flow over the said highway on the garden and other tillable lands and destroying the crops planted thereon and carrying stone and gravel from said highway on said lands materially damaging same, and

WHEREAS, The said damage resulting to said dwelling house was caused during the years 1930, 1931, 1932, 1933, 1934, and 1935, and said garden and crops were damaged and destroyed during the years 1930, 1931, 1932, 1933, 1934, and 1935, which damages amount to several hundreds of dollars, all of which have resulted from the carelessness and negligence of said Highway Commission as aforesaid, in the reconstruction of said highway, and

WHEREAS, Said State Highway Commission, by its agents and employees has repeatedly, and from year to year, promised and agreed to remedy the situations above complained of but failed to do so: Therefore,

—Said resolution reads as follows:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That Mattie E. Combest and Mabel Wesley, or either of them, jointly or separately, are permitted to sue the Commonwealth of Kentucky and the State Highway Commission, or either, in the Circuit Court of Casey County, the county wherein said land is situated, for such damages as they or either may have sustained, if any, by reason of the reconstruction of said highway as aforesaid, resulting to the dwelling house, garden and growing crops and injury to said lands during the years, 1930, 1931, 1932, 1933, 1934, and 1935, and such as may result before the trial in 1936. Suit may be for any sum.

Section 2. Either party to said suit may appeal from any judgment that may be rendered in said suit and the same procedure shall be followed as is provided in the Civil Code for other suits, and the case may be settled and compromised with the consent and approval of the Attorney-General of Kentucky in the same way as other civil cases.

Section 3. Any amount recovered in said suit or by settlement with the Attorney-General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

By Mr. Wilson.

H. Res. 65. A JOINT RESOLUTION for the benefit of Austin B. Price, Chief of Fayette County Police, for services rendered in behalf of the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

WHEREAS, Austin B. Price, Chief of Fayette County Police, conveyed Thomas Penny, a fugitive from justice, from Ft. Worth, Texas to Fayette County, Kentucky in an emergency, the costs of which conveyance were borne by Austin B. Price, in the sum of $188.24, no part of which has ever been repaid by the Commonwealth, now therefore:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Austin B. Price, Fayette County, Kentucky, for his services in returning Thomas Penny, a fugitive from justice, to Fayette County, Kentucky, is entitled to the sum of $188.24 for his services to the Commonwealth therein, and immediately upon the passage of this resolution the Commissioner of Finance shall draw a warrant in favor of Austin B. Price in the amount aforesaid and immediately transmit it to the State Treasurer, who shall issue a check in favor of Austin B. Price in the amount of $188.24 from the General Expenditure Fund.

Ordered that said bills and resolutions be printed and referred

To Committee on Rules.

Mr. Henry Ward moved that the House do now recess for thirty minutes.

Said motion was agreed to.

And then the House recessed.

Thirty minutes having expired, the Speaker resumed the Chair and called the House to order.

Mr. Henry Ward of the Committee on Rules, to which the same had been referred, reported bills of the following titles, viz.:

H. B. 80. An Act relating to the city manager form of government.

H. B. 188. An Act concerning personal representatives and other fiduciaries of estates.

H. B. 193. An Act fixing limitations on revocations, etc.

H. B. 245. An Act providing that public financial statements shall be filed with the Auditor of Public Accounts.

H. B. 273. An Act relating to the office of Commonwealth's Attorney in counties containing a population of 150,000 or more.

H. B. 281. An Act relating to transportation for hire by motor vehicles on public highways, etc.

H. B. 283. An Act relating to mechanics and material men.

H. B. 284. An Act relating to agricultural seeds.

H. B. 290. An Act relating to freight motor trucks and trailers.

H. B. 314. An Act relating to elections.

H. B. 315. An Act relating to narcotic drugs.

H. B. 316. An Act relating to juries.

H. B. 320. An Act to provide for the condemnation of property by cities of the second class, during time of war.

S. B. 45. An Act relating to the office of Attorney General of Kentucky.

S. B. 106. An Act relating to the classification of cities.

With the expression of opinion that said bills ought to pass.

Said bills were each and severally read at length the first time and ordered to be placed on the Calendar.

Mr. Henry Ward moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

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TUESDAY, FEBRUARY 17, 1942

The House was called to order by The Honorable Stanley S. Dickson, Speaker.

The House was opened with prayer by the Reverend Fred S. Moffatt of the First Baptist Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

| | | |
|---|---|---|
| George P. Anderson | Dr. J. A. Duff | William L. Jones |
| Henry Arrowood | Forest C. Easley | John S. Juett |
| W. T. Beard | Harry W. Ennis | W. A. Lamkin |
| Robert E. Beatty | John D. Fields | A. L. Love |
| Rell Bevins | T. P. Fitzpatrick | William Lovett |
| Douglas T. Bolling | W. W. Freeman | Harry K. Lowman |
| Gus A. Brooks | Joseph J. Grace | Hugh D. Lyon |
| Sherman E. Carter | A. G. Hamilton, Jr. | H. McCartney |
| C. L. Clayton | Fuller Harding | Cary McDevitt |
| T. Fowler Combs | Joe Higgins | Norris McPherson |
| Oris Cooper | E. R. Hilton | Dr. Wm. C. Mann |
| M. A. Cornett | Clyde S. Howard | Ed. Marcum |
| John Henry Cox | Jerry F. Howell | C. C. May |
| Rev. W. W. Crouch | Chas. O. Humston | J. Milton Mefford |
| Guthrie F. Crowe | W. H. Hunt | D. J. Moore |
| Pink G. Curd | Crow Jarvis | J. Lee Moore |

| | | |
|---|---|---|
| L. D. Moore | Wade H. Riley | C. W. Taylor |
| C. E. Montgomery | Dr. M. M. Robinson | Egbert Taylor |
| F. E. Morancy | Byron H. Royster | Roy L. Taylor |
| E. R. Morlidge | Dr. K. N. Salyer | Rev. H. Tinsley |
| C. Sid Nabb | Carl Scheben | John L. Trumbo |
| Coy Nevitt | Leon J. Shaikun | Erna E. Tyra |
| Robert Nicholas | Faust Y. Simpson | J. Wood Vance |
| H. C. Patterson | Clyde Smith | S. J. Wagner |
| Paul Pelfrey | Otto Smither | C. R. Walden |
| Kleber F. Price | Charles L. Spilman | Harry Walters |
| James E. Quill | James D. Stacey | H. A. Ward |
| L. Allen Rhoads | R. C. Stephenson | Henry Ward |
| Dr. J. J. Rice | Thomas M. Swope | H. L. Waterfield |

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Ordered that leave of absence be granted to Messrs. Reed Wilson and Floyd Ball.

Mr. Tyra moved that the Rules of this House be suspended for the purpose of extending privileges of the floor.

Said motion was agreed to.

Thereupon Mr. Howell moved that the privilege of the floor be extended to Messrs. Edward P. Hill, Woodrow Burchett, Dewey Roberts and Orbie Stratton.

Said motion was agreed to.

Mr. Fitzpatrick moved that the privilege of the floor be extended to Mr. Thomas X. Dunn, former member of this House.

Said motion was agreed to.

Mr. Jarboe moved that the privilege of the floor be extended to Mr. Frank L. Chelf.

Said motion was agreed to.

Mr. Brooks moved that the privilege of the floor be extended to Mrs. Paul of Mason County.

Said motion was agreed to.

Mr. Cooper moved that the privilege of the floor be extended to Messrs. Edgar Price and Ottis Brown.

Said motion was agreed to.

Mr. Juett moved that the privilege of the floor be extended to Mr. William Riseu of Williamstown, Kentucky.

Said motion was agreed to.

Mr. Wallen moved that the privilege of the floor be extended to Messrs. Curt Coleman, C. C. Sparks of Edmonton.

Said motion was agreed to.

Mr. Pelfrey moved that the privilege of the floor be extended to Messrs. Walter Click and Henry Clark.

Said motion was agreed to.

Mr. Waterfield moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

The House took up for consideration from the Calendar, bills of the following titles, viz.:

H. B. 297. An Act relating to the federal food or cotton stamp plan.

H. B. 264. An Act relating to finance and revenue of counties and cities.

H. B. 80. An Act relating to the city manager form of government.

H. B. 188. An Act concerning personal representatives and other fiduciaries of estates.

H. B. 193. An Act fixing limitations on revocations, etc.

H. B. 245. An Act providing that public financial statements shall be filed with the Auditor of Public Accounts.

H. B. 273. An Act relating to the office of Commonwealth's Attorney in counties containing a population of 150,000 or more.

H. B. 281. An Act relating to transportation for hire by motor vehicles on public highways, etc.

H. B. 283. An Act relating to mechanics and material men.

H. B. 284. An Act relating to agricultural seeds.

H. B. 290. An Act relating to freight motor trucks and trailers.

H. B. 314. An Act relating to elections.

H. B. 315. An Act relating to narcotic drugs.

H. B. 316. An Act relating to juries.

H. B. 320. An Act to provide for the condemnation of property by cities of the second class, during time of war.

S. B. 45. An Act relating to the office of Attorney General of Kentucky.

S. B. 106. An Act relating to the classification of cities.

Ordered that said bills be read the second time.

The Constitutional provision as to the second reading of said bills at length being dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 181. An Act prohibiting the sale, offering or exposing for sale, of fireworks, defining fireworks and regulating the manner of using fireworks, and providing penalties for violation of the provisions of this Act.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The term "fireworks" shall mean and include any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall included the type of balloons that require fire underneath to propel them, firecrackers, torpedoes, skyrockets, Roman candles, Daygo bombs, sparklers or other fireworks of like con-

struction and any fireworks containing any explosive or flammable compound.

The term "fireworks" does not include toy pistols, toy canes, toy guns or other devices in which paper caps containing twenty-five one hundredths grains or less of explosive compound are used, if they are so constructed that the hand cannot come in contact with the cap when in place for the explosion, or toy pistol caps containing less than twenty-five one hundredths grains of explosive compound.

Section 2. Except as hereinafter provided it shall be unlawful for any person, firm, co-partnership, or corporation to offer for sale, expose for sale, sell at retail, or use or explode any fireworks; provided that the Division of Insurance shall have power to adopt reasonable rules and regulations for the granting of permits for supervised public displays of fireworks by municipalities, fair association, amusement parks, and other organizations or groups of individuals. Every such display shall be handled by a competent operator to be approved by the Chiefs of the Police and Fire Departments of the municipality in which the display is to be held and shall be of such a character, and so located, discharged or fired as in the opinion of the Chief of the Fire Department, after proper inspection, shall not be hazardous to property or endanger any person or persons. Application for permits shall be made in writing at least fifteen (15) days in advance of the date of the display. After such privilege shall have been granted, sales, posession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable.

Section 3. The governing body of the municipality shall require a bond deemed adequate by the municipality from the licensee in a sum not less than five hundred dollars ($500) conditioned for the payment of all damages which may be caused either to a person or persons or to property by reason

of the licensed display, and arising from any acts of the licensee, his agents, employees or subcontractors.

Section 4. Nothing in this act shall be construed to prohibit any resident wholesaler, dealer, or jobber to sell at wholesale such fireworks as are not herein prohibited, or the sale of any kind of fireworks provided the same are to be shipped directly out of state; or the use of fireworks by railroads or other transportation agencies for signal purposes or illumination, or the sale or use of blank cartridges for a show or theatre, or for signal or ceremonial purposes in athletics or sports, or for the use by military or organization.

Section 5. The Division of Insurance shall seize, take, remove, or cause to be removed at the expense of the owners all stocks of fireworks or combustibles offered or exposed for sale, stored, or held in violation of this act.

Section 6. Any person, firm, co-partnership, or corporation violating the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail not exceeding ninety days, or by both such fine and imprisonment.

Mr. McPherson moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and rejected.

The yeas and nays being taken theron in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Crow Jarvis | Dr. M. M. Robinson |
| George P. Anderson | William Lovett | Charles L. Spilman |
| Henry Arrowood | Cary McDevitt | James D. Stacey |
| Oris Cooper | Norris McPherson | R. C. Stephenson |
| M. A. Cornett | Ed. Marcum | Erna E. Tyra |
| Rev. W. W. Crouch | E. R. Morlidge | J. Wood Vance |
| John D. Fields | C. Sid Nabb | C. R. Walden |
| P. Bert Hall | H. C. Patterson | Henry Ward |
| E. R. Hilton | James E. Quill | |
| W. H. Hunt | Dr. J. J. Rice | —28 |

Those who voted in the negative were—

| | | |
|---|---|---|
| W. T. Beard | William L. Jones | Wade H. Riley |
| Robert E. Beatty | John S. Juett | Byron H. Royster |
| Douglas T. Bolling | H. W. Linville | Carl Scheben |
| Gus A. Brooks | A. L. Love | Leon J. Shaikun |
| Sherman E. Carter | Hugh D. Lyon | Faust Y. Simpson |
| C. L. Clayton | H. McCartney | Clyde Smith |
| John Henry Cox | Dr. Wm. C. Mann | Otto Smither |
| Guthrie F. Crowe | D. J. Moore | Thomas M. Swope |
| Dr. J. A. Duff | J. Lee Moore | C. W. Taylor |
| Forest C. Easley | L. D. Moore | Egbert Taylor |
| Harry W. Ennis | C. E. Montgomery | Roy L. Taylor |
| Joseph J. Grace | F. E. Morancy | Rev. H. Tinsley |
| A. G. Hamilton, Jr. | Coy Nevitt | John L. Trumbo |
| Fuller Harding | Robert Nicholas | H. A. Ward |
| Clyde S. Howard | Kleber F. Price | |
| Chas. O. Humston | L. Allen Rhoads | —46 |

Mr. Juett moved that the vote by which said bill was rejected be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Order of the day, a bill entitled:

H. B. 285. An Act relating to permits to erect or maintain poles, lines, wires, pipe lines or other equipment on the rights of way of highways or public roads of this Commonwealth and providing a fee for such permits.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

*Section One:* Any person, persons, firm, partnership, or corporation desiring to use the rights of way of any highway or public road in this Commonwealth for the purpose of erecting or maintaining poles, wires, pipe lines or other equipment on, over or under any right of way of any highway or public road of this Commonwealth, shall make application for a permit to the Department of Highways as is now provided by law and all such applications shall be accompanied by a fee of $5.00, which fee shall be covered into the State Treasury and credited to the State Road Fund.

*Section Two:* The Commissioner of Highways shall issue such permits when it is determined by him that the said lines, poles, wires or other equipment or appliance will not interfere with the proper maintenance and operation of said road or roads and the Commissioner of Highways is hereby authorized to adopt such rules and regulations as he may deem proper for the enforcement of this Act.

Mr. Curd moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Mr. Ward moved that said bill be made a Special Order of the Day for Wednesday, at two o'clock P. M.

Said motion was disagreed to.

Mr. Juett moved that the vote by which the Previous Question was ordered, be reconsidered.

Said motion was agreed to.

Thereafter such reconsideration, Mr. Ward moved that said bill be laid on the Clerk's Desk.

Said motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 155. An Act relating to payment of witnesses for the Commonwealth in felony cases.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 368 of Carroll's Kentucky Statutes, 1936 Edition, is amended to read as follows:

"A Commonwealth's witness in a felony case who resides in another state shall be allowed his necessary expenses in addition to the per diem, but no such allowance shall be made unless the judge of the court has made an order based upon the personal knowledge of the circuit judge or upon information showing that the testimony of the witness is material to the state, requiring the attendance of the witness. The expense and per diem shall be allowed by the circuit court and certified to the Department of Finance for payment."

Section 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in the place of KRS 421.030, and thereafter be treated as an amendment to KRS 421.030 rather than an amendment to section 368 of Carroll's Statutes.

Mr. Harding moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Guthrie F. Crowe | W. H. Hunt |
| George P. Anderson | Pink G. Curd | Joe B. Jarboe, Jr. |
| Henry Arrowood | Forest C. Easley | Crow Jarvis |
| Robert E. Beatty | Harry W. Ennis | William L. Jones |
| Rell Bevins | John D. Fields | John S. Juett |
| Douglas T. Bolling | T. P. Fitzpatrick | W. A. Lamkin |
| H. M. Brock, Jr. | W. W. Freeman | H. W. Linville |
| Gus A. Brooks | P. Bert Hall | A. L. Love |
| Sherman E. Carter | Fuller Harding | William Lovett |
| T. Fowler Combs | Joe Higgins | Harry K. Lowman |
| Oris Cooper | E. R. Hilton | Hugh D. Lyon |
| M. A. Cornett | Clyde S. Howard | H. McCartney |
| John Henry Cox | Jerry F. Howell | Norris McPherson |
| Rev. W. W. Crouch | Chas. O. Humston | Dr. Wm. C. Mann |

| | | |
|---|---|---|
| Ed. Marcum | Kleber F. Price | James D. Stacey |
| C. C. May | James E. Quill | R. C. Stephenson |
| J. Milton Mefford | L. Allen Rhoads | Thomas M. Swope |
| D. J. Moore | Wade H. Riley | C. W. Taylor |
| J. Lee Moore | Dr. M. M. Robinson | Egbert Taylor |
| L. D. Moore | Byron H. Royster | John L. Trumbo |
| C. E. Montgomery | Dr. K. N. Salyer | Erna E. Tyra |
| F. E. Morancy | Carl Scheben | J. Wood Vance |
| E. R. Morlidge | Leon J. Shaikun | Harry Walters |
| C. Sid Nabb | Faust Y. Simpson | H. A. Ward |
| Coy Nevitt | Clyde Smith | Henry Ward |
| Robert Nicholas | Otto Smither | H. L. Waterfield |
| H. C. Patterson | Charles L. Spilman | —80 |

Resolved that the title thereof be as aforesaid.

Mr. Harding moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee of Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 236. An Act relating to probation and parole.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

1. There is hereby created in the Department of Welfare a Division of Probation and Parole, headed by a director who shall make rules and regulations governing parolees and shall have the same powers of arrest as probation and parole officers. The Division of Probation and Parole, under the direction of the Commissioner of Welfare, shall exercise the functions vested in the Department of Welfare relating to probation and parole.

2. If the Kentucky Revised Statutes are enacted at present session of the General Assembly, section one of this act shall stand repealed as of the effective date of the Kentucky Revised Statutes, and the following shall take effect in lieu thereof:

3. KRS 196.040 shall stand amended to read as follows:

(1) The department shall be divided into:

(a) A Division of Public Assistance, headed by a director who is thoroughly trained and experienced in welfare work;

(b) A Division of Child Welfare, headed by a director who is thoroughly trained and experienced in child welfare work;

(c) A Division of Corrections, headed by a director who is thoroughly trained and experienced in penology and prison management;

(d) A Division of Probation and Parole, headed by a director who is thoroughly trained and experienced in probation and parole work;

(e) A Division of Hospitals and Mental Hygiene, headed by a director who is a graduate physician of good character and reputation and who has had at least five years' experience in the institutional care and treatment of the insane and feeble-minded;

(f) A laboratory of Criminal Identification and Statistics, headed by a director who has had successful experience in the field of criminology.

(2) The divisions shall be under the direction of the Commissioner of Welfare.

4. KRS 196.070 shall stand amended to read as follows:

The Division of Correction shall:

(1) Supervise and administer the Kentucky State Reformatory at La Grange and its divisions located in Shelby

County and at Frankfort, the Kentucky State Penitentiary at Eddyville and the Houses of Reform at Greendale.

(2) Supervise the employment of prisoners, who have not been paroled, either within or without the walls or enclosures of these institutions.

(5) A new section of the Kentucky Revised Statutes is created to be numbered 196.075 and to read as follows:

The Division of Probation and Parole, under the direction of the Commissioner of Welfare, shall exercise the functions vested in the Department of Welfare relating to probation and parole. The Director of Probation and Parole shall make rules and regulations governing parolees and shall have the same powers of arrest as probation and parole officers.

6. Section 979b-6 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

When directed by the court a probation officer shall fully investigate and report to the court, in writing, the circumstances of the offense, criminal record, social history and present condition of the defendant. No defendant charged with a felony, and, unless the court decides otherwise in individual cases, no other defendant, shall be placed on probation or released under the postponement of rendition of judgment until the report of the investigation has been presented to and considered by the court. Whenever practicable, the investigation shall include physical and mental examinations of the defendant. If the defendant is committed to an institution, a copy of the report of the investigation shall be sent to the Division of Probation and Parole.

7. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section six of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 439.030, and thereafter be treated as an amendment to KRS 439.030 rather than an amendment to Section 979b-6 of Carroll's Statutes.

8. Section 979b-8 of Carroll's Kentucky Statutes is amended to read as follows:

(1) At any time during the period of probation or postponement of judgment, the court may issue a warrant and cause the defendant to be arrested for violating any of the conditions of probation or postponement of rendition of judgment. Any probation officer or other officer with power of arrest, upon the request of the probation officer, may arrest a probationer without a warrant. In case of an arrest without a warrant the arresting officer shall have a written statement by the probation officer setting forth that the probationer has, in his judgment, violated the conditions of his probation. That statement shall be sufficient warrant for the detention of the probationer in the county jail, or other appropriate place of detention, until the probationer is brought before the court. The probation officer shall forthwith report the arrest and detention to the court and submit in writing a report showing in what manner the probationer has violated probation. Thereupon the court, after a hearing, may revoke the probation or postponement of rendition of judgment and shall proceed to deal with the case as if there had been no probation or postponement of rendition of judgment. The court may, without a hearing, revoke the probation or postponement of rendition of judgment if a certified copy of the order of another court is filed with him, which order shows that the probationer has been convicted of a subsequent crime and incarcerated in a penal institution.

(2) The period of probation or postponement of rendition of judgment shall be determined by the court and may be continued or extended. Such period and any continuation or extension thereof shall be stated in the court order fixing it. Upon the satisfactory fulfillment of the conditions of probation or postponement of rendition of judgment, the court shall by order discharge the defendant.

9. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, subsection (1) of

section eight of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 439.050, and subsection (2) of section eight of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 439.060, and thereafter section eight shall be treated as an amendment to KRS 439.050 and 439.060 rather than an amendment to section 979b-8 of Carroll's Statutes.

10. Section 3828-3 of Carroll's Kentucky Statutes is amended to read as follows:

A paroled prisoner shall make such written report to such officer of the department as the department by regulation prescribes. If he fails to make such a report or any other report required of him by the regulation of the department, or if his conduct is reported as not good, the failure to report or conduct himself properly shall constitute violation of his parole.

11. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section ten of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 439.160, and thereafter be treated as an amendment to KRS 439.160 rather than an amendment to section 3828-3 of Carroll's Statutes.

Mr. Freeman moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | William L. Jones | B. W. Porter |
| Henry Arrowood | John S. Juett | Kleber F. Price |
| Robert E. Beatty | W. A. Lamkin | L. Allen Rhoads |
| Rell Bevins | H. W. Linville | Wade H. Riley |
| Douglas T. Bolling | A. L. Love | Dr. M. M. Robinson |
| H. M. Brock, Jr. | William Lovett | Carl Scheben |
| T. Fowler Combs | Harry K. Lowman | Faust Y. Simpson |
| M. A. Cornett | Hugh D. Lyon | Otto Smither |
| John Henry Cox | H. McCartney | Charles L. Spilman |
| Rev. W. W. Crouch | Cary McDevitt | James D. Stacey |
| Pink G. Curd | Ed. Marcum | Thomas M. Swope |
| Forest C. Easley | C. C. May | C. W. Taylor |
| Harry W. Ennis | J. Milton Mefford | Roy L. Taylor |
| T. P. Fitzpatrick | Sam Milam | John L. Trumbo |
| W. W. Freeman | D. J. Moore | S. J. Wagner |
| Joseph J. Grace | L. D. Moore | C. R. Walden |
| Bert P. Hall | C. E. Montgomery | Harry Walters |
| Joe Higgins | F. E. Morancy | Henry Ward |
| E. R. Hilton | E. R. Morlidge | H. L. Waterfield |
| Clyde S. Howard | Robert Nicholas | —59 |

Those who voted in the negative were—

| | | |
|---|---|---|
| Gus A. Brooks | Jerry F. Howell | R. C. Stephenson |
| Oris Cooper | Coy Nevitt | —5 |

Resolved that the title thereof be as aforesaid.

Mr. Freeman moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 146. An Act relating to the establishment and operation of electric power systems and facilities by cities and counties.

With a Committee amendment thereto by way of Substitute therefor.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. DEFINITIONS. As used in this chapter, unless the context requires otherwise:

(1) "Acquire" means to purchase, to lease, to construct, to reconstruct, to replace, or to acquire by gift or condemnation;

(2) "Board" means a board of public utilities established pursuant to Section 15;

(3) "Bonds" mean either general obligation bonds or revenue bonds;

(4) "Constitution" means the Constitution of Kentucky;

(5) "Dispose" means sell, lease, or otherwise transfer any interest in property;

(6) "Electrical plant" means generating, transmission or distribution system, or a combination of them, together with all other facilities, equipment and apputenances necessary or appropriate to any such system, for the furnishing of electric power and enegry for any purpose for which electric power and energy can be used, whether or not such property has been or is to be acquired by means of bonds issued under this Act;

(7) "Electric Service" means the furnishing of electric power and energy for any purpose for which electric power and energy can be used;

(8) "General obligation bonds" means direct or general obligations of any municipality, issued within the limits and subject to the provisions of Sections 157 and 158 of the Constitution;

(9) "Governing body" means the board, council, commission, fiscal court, or other general governing body of the municipality;

(10) "Governmental Agency" includes the United States, the President, the Federal Works Agency, the Federal Lending Agency, Tennessee Valley Authority, or any other similar agency, instrumentality or corporation of the United States, or of Kentucky or any political sub-division thereof, created by or pursuant to any Act of Congress or by State legislation;

(11) "Improve" means to acquire any improvement;

(12) "Improvement" means any improvement, extension, betterment or addition to any electric plant;

(13) "Law" means any statute of this State;

(14) "Municipality" means any city, or county in Kentucky contracting for electric service with any Federal agency; and

(15) "Revenue bonds" means obligations payable solely from the revenues derived from the operation of an electric plant and such bonds shall not constitute an indebtedness of any municipality within the meaning of the provisions or limitations of the Constitution.

Section 2. SCOPE OF ACT.

(1) The provision of this Act shall not apply in the case of a municipality operating an electric plant under any other law, but the governing body of any such municipality, or of any municipality acquiring an electric plant after the date on which this Act takes effect without issuing bonds hereunder, may elect to operate under the provisions of this Act, in which case, from the time of the exercise of such election and the

appointment of a board hereunder, the electric plant of such municipality shall be operated under the provisions of this Act.

(2) The powers conferred by this Act are in addition and supplemental to the powers conferred by any other law. Bonds may be issued hereunder for the acquisition or improvement of an electric plant notwithstanding that any other law may provide for the issuance of bonds for like purposes and without regard to the requirements, restrictions or procedural provisions contained in any other law. Any proceedings heretofore taken by any municipality relating to the subject matter of this Act, whether or not commenced under any other law, may at the option of the governing body, be discontinued and new proceedings instituted under this Act.

Section 3. POWER OF MUNICIPALITIES. Except as otherwise specifically provided in this Act, the governing body of the municipality shall exercise all powers conferred upon the municipality by this Act. Every city and county may purchase electric power and energy from any Federal agency and every such municipality may:

(1) Acquire, improve, operate and maintain an electric plant within or without the boundaries of such municipality, without respect to the limitations of any other law, and may provide electric service to any user or consumer within and without the boundaries of such municipality, and may charge therefor;

(2) Acquire, improve or use, individually or jointly with any other municipality, a transmission line or lines or generating plant, together with all necessary and appropriate facilities, equipment and appurtenances, for the purpose of generating or transmitting power and energy and connecting their respective electric plants, with a wholesale source of supply, and in the case of any such joint action, such municipalities may provide by contract for the method of holding title, for the allocation of responsibility for operation and maintenance and for the allocation of expenses and revenues;

(3) Construct, operate and maintain electric transmission and distribution lines and related facilities upon and along the rights-of-way of public roads, provided that such lines shall not be so constructed as, in the judgment of the State or county authorities having jurisdiction, to constitute a hazard or obstruction to traffic upon the roads;

(4) Accept grants, loans, or other financial assistance from any Governmental Agency for or in aid of the acquisition or improvement of any electric plant;

(5) Contract debts and borrow money for the acquisition or improvement of any electric plant, issue bonds to finance such acquisition or improvement, provide for the rights of holders of the bonds and to secure the bonds as hereinafter provided, and pledge all or any part of the revenues derived from electric service to the payment of such debts or repayment of money borrowed;

(6) Acquire, hold, and, subject to the provisions of section 5 and the applicable provisions of any bonds or contracts, dispose of any property, real or personal, tangible or intangible, or any right or interest in any such property in connection with any electric plant, and whether or not subject to mortgages, liens, charges, or other encumbrances;

(7) Make contracts and execute instruments containing such covenants, terms, and conditions as in the discretion of the municipality may be necessary, proper or advisable for the purpose of obtaining loans from any source, or grants, loans or other financial assistance from any Governmental Agency, including, but without limitation, covenants, terms, and conditions with respect to the acquisition or construction of any electric plant or any improvement thereto with money in whole or in part borrowed from or granted by any governmental agency; make all other contracts and execute all other instruments as in the discretion of the municipality may be advisable in or for the furtherance of the acquistion, improvement, operation and maintenance of any electric plant and

the furnishing of electric service; and carry out and perform the convenants, terms, and conditions of all such contracts or instruments;

(8) Enter on any lands, waters and premises for the purpose of making surveys, soundings and examinations in connection with the acquistion, improvement, operation or maintenance of any electric plant and the furnishing of electric service;

(9) Do all acts and things necessary or convenient to carry out the powers expressly given in this Act.;

(10) Make any contracts necessary or convenient for the full exercise of the powers herein granted, including, but not limited to, contracts for the purchase or sale of electric energy or power, and contracts for the acquisition or improvement of all or any part of an electric plant. And, in connection with any such contract with a Governmental Agency, the municipality may stipulate and agree to such covenants, terms and conditions as the governing body deems appropriate, including, but without limitation, covenants, terms and conditions with respect to the resale rates, financial and accounting methods and the manner of disposing of the revenue of the electric plant conducted and operated by the municipality; except that the municipality shall not have power to contract with the Tennessee Valley Authority or other governmental agencies for electric energy or power unless the contract governing the sale and delivery of electric power or energy by any such agency to the municipality shall provide that the resale rates of usch energy or power shall include an amount equivalent to the total ad valorem taxes which the plant or sytem would pay if privately owned to municipalities, counties, other taxing districts and the State, and that said amount shall be distributed to them on a tax apportionment basis; and

(11) Acquire a franchise to furnish electric service to any other city or county or the inhabitants thereof, and to

contract with any other city or county to furnish it with electric service. Such contracts may be entered into by the governing bodies of the other cities or counties.

Provided, however, that before a municipality shall have authority to condemn an existing electric plant under the provisions of Section 28 or to enter upon the construction of any competing or duplicating facilities under the provisions of Section 31, the municipality shall notify the owner of the existing electric plant, hereinafter referred to as the owner, in writing of its desire to enter into an agreement as to the value of the electric plant and its desire to purchase the plant or a portion thereof. If no fair and reasonbale price shall be agreed upon within sixty (60) days after the aforesaid notice has been given the owner and the owner desires that further efforts to determine a fair price be made, a board of appraisers consisting of two members shall be appointed, one by the governing body of the municipality and the other by the owner. Such appointment shall be made within thirty (30) days after the expiration of the time given the municipality and the owner to agree upon the value of the existing electric plant. Should the two members of the board of appraisers be unable to agree within thirty (30) days after their appointment upon a fair and reasonable price, a third member of the board shall be selected by them. In the event the two appraisers can not agree upon the third member of the board, then upon application of either the municipality or the owner the Governor of the Commonwealth shall name the third appraiser. The board of appraisers shall consult with the State Public Service Commission in its efforts to arrive at a fair price for the electric plant, and the State Public Service Commission shall make available to the board of appraisers its facilities and any information in its possession bearing on the value of the electric plant. It shall be the duty of the board of appraisers to make a survey of, appraise and submit to the municipality and the owner in writing its valuation of the electric plant. The board shall file its written report within

six (6) months from the date of the appointment of the first two members. The value fixed by two of the three members of the board of appraisers shall be the finding of the board. In the event two of the three members can not agree within six (6) months after the appointment of the first two members, the entire first board shall be discharged and, by agreement between the municipality and the owner, a second board may be appointed as provided herein, which shall make its final report within six (6) months. It shall be the duty of the municipality to pay all compensation to the member appointed by it, and the duty of the owner to pay all compensation to the member appointed by him, and the municipality and the owner shall each pay one-half of the compensation which may be due the third members and one-half of all other costs incurred in connection with the work of the board of appraisers. These costs may be included as a part of the purchase price agreed upon. Neither the municipality nor the owner shall be required to accept the report of the board of appraisers.

Section 4. ISSUANCE OF BONDS.

(1) Subject only to the provisions of Section 31, any municipality, by action of its governing body, may issue revenue bonds without holding an election; but the ordinance or resolution authorizing the issuance of such bonds shall be published once a week for three consecutive weeks in the newspaper having the largest bona fide circulation within said municipality; and, if a petition signed by voters equal in number to twenty-five percent (25%) of the total vote cast at the preceding general election in said municipality is filed with the governing body not later than ten (10) days after the last publication date of said ordinance or resolution, demanding an election on the question of the issuance of such revenue bonds, an election shall be held as hereinafter provided in this section.

(2) The governing body of the municipality shall adopt a resolution, hereinafter called the "Election Resolution," which shall state in substance:

(a) The purpose or purposes for which such revenue bonds are to be issued;

(b) The amount or miximum amount of revenue bonds to be issued, the maximum rate of interest, the type of bonds and the maturity or maturities thereof; and

(c) The date on which the election will be held, the places where votes may be cast and the hours between which the voting places will be open.

(3) The Election Resolution shall be published at least twice not less than thirty (30) days prior to the date fixed for the election in the newspaper published in the municipality having the largest bona fide circulation in the municipality, or, if there is no newspaper published in the municipality, then the Election Resolution shall be published in the newspaper issued elsewhere which has the largest bona fide circulation in the municipality, and the Election Resolution shall also be posted not less than thirty (30) days prior to the date fixed for the election in five (5) conspicuous places in the municipality.

(4) The election shall be held on the day of the regular November election. The governing body of the municipality shall not less than thirty (30) days before election, certify to the County Clerk of the county in which the municipality is located a copy of the Election Resolution. The County Clerk shall have the Election Resolution printed on the ballots provided for use in the municipality, or on a separate ballot if the governing body of the municipality so requests by resolution. Following the Election Resolution, the County Clerk shall have printed on the ballot the question: "Are you in favor of the Election Resolution?" Opposite the question the County Clerk shall have printed the words "Yes" and "No" with the proper squares for stamping the cross mark to indicate preference.

(5) All legal voters of the municipality may vote at the election. The election shall be conducted and the votes shall be counted according to the election laws of this State.

(6) If a majority of the votes cast on the question are in favor of the Election Resolution, the governing body of the municipality may proceed to issue the bonds described in the resolution.

Section 5. PROCEDURE FOR DISPOSITION OF ELECTRIC PLANT.

(1) The governing body of the municipality may sell or dispose of all or substantially all of an electric plant located within its boundaries, or of all or substantially all of that part of an electric plant located within its boundaries, but only with the approval of the board of public utilities, if such board shall have been appointed pursuant to Section 15, and a majority of those voting in an election held as provided in subsections (2) and (3).

(2) The governing body shall adopt a resolution which shall state in substance:

(a) That the board of public utilities, or, in the event that no such board has been appointed, the governing body, has approved the proposed sale or disposition;

(b) A full description of the property to be sold or disposed of;

(c) The transferees or purchasers therof;

(d) The consideration to be received by the municipality for such sale or disposition;

(e) The terms or conditions of such sale or disposition;

(f) The date on which such election will be held, which shall be the day of the regular November election;

(g) The place or places where votes may be cast; and

(h) The hours between which the voting places will be open.

(3) At such election the ballot shall contain the words "For the Disposition of the Electric Plant" and "Against the Disposition of the Electric Plant." In all other respects the election shall be called and held in accordance with the election procedure set forth in Section 4.

(4) The governing body of the municipality may dispose of all or any part of an electric plant, or all or any part of any section thereof, located without the boundaries of the municipality with the approval only of said board of public utilities, or, if there be no such board, without necessity for further approval.

Section 6. EFFECTIVE DATE OF RESOLUTIONS AND ORDINANCES. Any resolution or ordinance adopted by the governing body of any municipality under the provisions of this Act shall become effective from and after its passage, and shall not be the subject of a referendum or election except as provided in this Act.

Section 7. VALIDITY OF BONDS. All bonds issued pursuant to this Act, bearing the signatures of officers in office on the date of signing therof, shall be valid and binding obligations, notwithstanding that before the delivery thereof and payment therefor any or all the persons whose signatures appear thereon shall have ceased to be officers of the municipality issuing the same. The validity of the bonds shall not be dependent on nor affected by the validity or regularity of any proceedings relating to the lease, acquisition, purchase, condemnation, construction, reconstruction, improvement, betterment or extension of the public works for which the bonds are issued. The resolution shall contain a recital that they are issued pursuant to this Act, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

Section 8. LIMITATION OF ACTIONS. Any action challenging the validity of an election resolution, bond resolution, or election adopted or held hereunder, shall be brought within thirty (30) days from the date on which such election resolution or bond resolution was adopted or election held, as the case may be, and, if not brought within such time, shall be forever barred.

Section 9. REVENUE BONDS NOT A GENERAL OBLIGATION OF MUNICIPALITY.

No holder or holders of any revenue bonds issued under this Act shall have the right to compel any exercise of taxing power of the municipality to pay the bonds or the interest thereon. Each revenue bond issued under this Act shall recite in substance that the bond, including interest thereon, is payable solely from the revenue pledged, to the payment thereof, and that the bond does not constitute a debt of the municipality within the meaning of any statutory or constitutional provision or limitation.

Section 10. BOND PROVISIONS.

(1) Bonds issued pursuant to this Act may be issued in one or more series, may bear such date or dates, may mature at such time or times, not exceeding forty (40) years from their respective dates, may be in such denomination or denominations, may be in such form, either coupon or registered, may carry such registration and conversion privileges, may be executed in such manner, may be payable in such medium of payment, at such place or places, may be sold or hypothecated in such blocks, may be subject to such terms of redemption, with or without premium, and may be declared to become due before the maturity date thereof, as may be provided by resolution or resolutions of the governing body of the municipality.

(2) Such bonds may be issued for money or property at public sale, for such price or prices, at such rate of interest, and may be hypothecated in such manner as the governing body determines, but the interest cost to maturity of the property (at the value determined by the governing body, which determination shall be conclusive) or the money received for any issue of said bonds, shall not exceed the rate of six percent (6%) per annum, payable semi-annually. Such bonds shall have all the qualities and incidents of negotiability, and shall not be subject to taxation. Pending the prepa-

ration, execution or delivery of definitive bonds, interim receipts or certificates or temporary bonds may be delivered to the purchaser or purchasers of such bonds.

Section 11. ADDITIONAL POWERS TO SECURE BONDS AND MAKE AGREEMENTS.

In order to secure the payment of any of the bonds issued pursuant to this Act, and interest thereon, or in connection with such bonds, the governing body of any municipality shall have power as to such bonds, to the extent not inconsistent with the mandatory provisions of this Act or the provisions of the election resolution:

(1) To pledge all or any part of the revenues derived from electric service;

(2) To provide for the terms, form, registration, exchange, execution and authentication of any bonds;

(3) To provide for the replacement of lost, destroyed, or mutilated bonds;

(4) To convenant as to the use and disposition of the proceeds from the sale of such bonds;

(5) To covenant as to the rates and charges of the electric plant;

(6) To redeem such bonds, and to covenant for their redemption and to provide the terms and conditions thereof;

(7) To covenant and prescribe as to what happenings or occurrances shall constitute "events of default" and the terms and conditions upon which any or all of such bonds shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived;

(8) To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, conditior or obligation;

(9) To vest in a trustee or trustees the right to receive all or any part of the income and revenue pledged and assigned to or for the benefit of the holder or holders of bonds

issued hereunder, and to hold, apply and dispose of the same and the right to enforce any covenant made to secure or pay or in relation to the bonds; to execute and deliver a trust agreement or trust agreements which may set forth the powers and duties and the remedies available to such trustee or trustees and limiting the labilities thereof and describing what occurraneces shall constitute "events of default" and prescribing the terms and conditions upon which such trustee or trustees or the holder or holders of bonds of any specified amount or percentage may exercise such rights and enforce any and all such covenants and resort to such remedies as may be appropriate;

(10) To make covenants other than, and in addition to, the covenants herein authorized, of like or different character, necessary or advisable to effectuate the purpose of this Act; and

(11) To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its convenants or duties.

Section 12. REMEDIES OF ANY HOLDER OR HOLDERS OF BONDS.

Any holder or holders of bonds issued pursuant to this Act, including a trustee or trustees for holders of such bonds, shall have the right, in addition to all other rights:

(1) By action in court, to enforce his or their rights against the municipality, the governing body thereof, the board of public utilities hereinafter provided for, and any other proper officer, agent or employee of any of them, including, but without limitation, the right to require the municipality, the governing body, the said board, and any proper officer, agent or employee of any of them, to fix and collect rates and charges adequate to carry out any agreement as to, or pledge of, electric plant revenues, and to require the municipality, the governing body thereof, the said board and any officer, agent or employee of any of them to carry out any

other covenants and agreements and to perform its and their duties under this Act; and

(2) By action in equity to enjoin any act or thing which may be unlawful or a violation of the rights of such holder of bonds.

Section 13. RECEIVER, APPOINTMENT, POWERS AND DUTIES.

If there is a default in the payment of the principal or interest of any bonds issued pursuant to this Act, any court having jurisdiction may, upon the petition of the holders of not less than twenty-five per cent (25%) of the outstanding bonds, appoint a receiver to administer said electric light, heat and power plant on behalf of the municipality, with power to charge and collect rates sufficient to provide for the payment of any bonds or obligations outstanding against said electric light, heat and power plant and for the payment of the operating expenses and to apply the income and revenues in conformity with this Act.

Section 14. PRELIMINARY EXPENSES.

(1) All expenses incurred by the governing body of any municipality in the making of surveys, estimates of cost and of revenues, employment of engineers, attorneys, or other employees, the giving of notices, taking of options, selling of bonds, and all other preliminary expenses of whatever nature which such governing body deems necessary in connection with or precedent to the acquisition or improvement of any electric plant and which it deems necessary to be paid prior to the issuance and delivery of the bonds issued pursuant to the provisions of this Act, may be met and paid out of the general fund of said municipality not otherwise appropriated, or from any other available fund.

(2) All such payments from the general or other funds shall be considered as temporary loans and shall be repaid immediately upon sale and delivery of the bonds, and claim

for such repayment shall have priority over all other claims against the proceeds derived from the sale of such bonds.

Section 15. BOARD OF PUBLIC UTILITIES.

(1) Within three (3) months after a municipality issues bonds under this Act, the chief executive officer of the municipality shall, with the consent of the governing body of the municipality, appoint a board of public utilities consisting of four residents of the municipality who have resided therein for not less than one (1) year next preceding the date of appointment.

(2) No person shall be appointed a member of the board who has, within the last two years before his appointment, held any public office, or who has within that period been a member of any committee of any political party, or who is related within the third degree to the mayor or a member of the governing body of the municipality.

(3) The board shall not appoint to any subordinate office which they may create any person who is related to any member of the board or to the mayor of said municipality or to any member of the governing body of said municipality. No regular compensated officer or employee of a municipality shall be eligible for such appointment until at least one (1) year after the expiration of the term of his public office.

(4) The members of the board shall be citizens, taxpayers, and legal voters of such municipality and shall not at the time of the appointment be indebted to the municipality either directly or indirectly or be surety on the official bonds of any officer of said municipality.

(6) If at any time during his term of office a member of the board becomes a candidate for or is elected or appointed to any public office, he shall automatically vacate his membership from the board and another person shall be appointed in his place.

(6) The municipality shall pay the cost of securing bonds for board members from a surety company, and said

members shall each execute bond in an amount required by resolution of the governing body, and conditioned upon the faithful performance of their official duties.

(7) Each member of the board shall qualify by taking the oath required by Section 228 of the Constitution.

Section 16. COMPENSATION OF BOARD.

(1) The salary of each member of a board of public utilities shall be fixed by the governing body of the municipality as follows:

(a) For each member of a board controlling a plant which furnishes electric service to a city of the first class, at not exceeding $1,500 per annum;

(b) For each member of a board controlling a plant which furnishes electric service to a city of the second class, not exceeding $1,000 per annum;

(c) For each member of a board controlling a plant which furnishes electric service to a city of the third class, at not exceeding $750 per annum; and

(d) For each member of any other board, at not exceeding $300 per annum.

(2) Such salaries, as well as the salary of the secretary-treasurer, shall constitute a cost of operation and maintenance of the electric plant.

Section 17. TERM OF BOARD MEMBERS; VACANCIES.

The original appointees shall serve for one, two, three and four years, respectively, from the date of appointment, as the said chief executive officer shall designate. Successors to retiring members so appointed shall be appointed for a term of four years in the same manner, prior to the expiration of the term of office of the retiring members. In addition to the members so appointed, such chief executive officer shall also, with the consent of the governing body, designate a member of such governing body, or in his discretion the city manager,

to serve as a fifth member of the board. The term of such member shall be for such time as the appointing officer may fix, but not beyond such appointee's term of office in such governing body, or his employment as city manager. Appointments to complete unexpired terms of office shall be made in the same manner as original appointments.

Section 18. BOARD MEETINGS.

A majority of the board shall constitute a quorum and the board shall act by vote of a majority present at any meeting attended by a quorum. Vacancies in the board shall not affect its power and authority so long as a quorum remains. Within (10) days after appointment and qualification of members, the board shall hold a meeting to elect a chairman. The board shall at the same time designate a secretary-treasurer, and shall fix his compensation. The board shall hold public meetings at least once each month, at such regular time and place as the board may determine. Changes in such time and place of meeting shall be made known to the public as far in advance as practicable. Any special meeting may be called by the chairman or by two members of the board, but if such special meeting is called, written notice shall be sent all members of the board by the secretary-treasurer. Except as otherwise expressly provided, the board shall establish its own rules of procedure.

Section 19. REMOVAL OF BOARD MEMBERS.

Any member of the board may be removed from office upon a vote of a majority of the members of the governing body of the municipality for inefficiency, neglect of duty, or malfeasance in office.

Section 20. GOVERNING BODY MAY ACT UNTIL BOARD APPOINTED.

Prior to the appointment of a board, the governing body of the municipality shall exercise all the powers herein conferred upon the board, and any reference in this Act to the

board shall be deemed during such period to refer to the governing body.

Section 21. SUPERVISION AND CONTROL OF THE ELECTRIC PLANT.

(1) After a board has been appointed, it shall have charge of the general supervision and control of the acquisition, improvement, operation and maintenace of the electric plant of the municipality. The board shall employ an electric plant superintendent (herein called "superintendent"), who shall be qualified by training and experience for the general superintendence of the acquisition, improvement and operation of the electric plant. The superintendent need not be a resident of this State at the time of his appointment. His salary shall be fixed by the board. The superintendent shall be removable by the board for inefficiency, neglect of duty, or malfeasance in office. He shall be required to execute a bond, in a sum to be determined and approved by the board, conditioned upon the faithful performance of his official duties. The cost of the bond may be charged as an expense of the operation of the electric plant.

(2) Within the limits of the funds available therefor, all powers of a municipality to acquire, improve, operate and maintain, and to furnish electric service, and all powers necessary or convenient thereto, conferred by this Act, shall be exercised on behalf of the municipality by the board and the superintendent, respectively. Subject to the provisions of applicable bonds or contracts, the board shall determine programs and make all plans for the acquisition of the electric plant, shall make all determinations as to improvements, rates and financial practices, may establish such rules and regulations as it deems necessary or appropriate to govern the furnishing of electric service, and may disburse all moneys available in the electric plant fund hereinafter established for the acquisition, improvement, operation and maintenance of the electric plant and the furnishing of electric service.

(3) A copy of the schedule of the current rates and charges in effect from time to time and a copy of all rules and regulations of the board relating to electric service shall be kept on public file at the main and all branch offices of the electric plant and also in the office of the municipal clerk or recorder. The superintendent shall have charge of all actual construction, the immediate management and operation of the electric plant and the enforcement and execution of all rules, regulations, programs, plans and decisions made or adopted by the board.

(4) The superintendent shall appoint all employees and fix their duties and compensation, except that the appointment of all technical consultants and advisers and legal assistants shall be subject to the approval of the board. Subject to the provisions of subsection (6) of section 3, the superintendent, with the approval of the board, may acquire and dispose of all property, real and personal, necessary to effectuate the purposes of this Act. The title to such property shall be taken in the name of the municipality.

(5) The superintendent shall let all contracts, subject to the approval of the board, but may, without such approval, obligate the electric plant on purchase orders up to an amount to be fixed by the board. All contracts shall be in the name of the municipality, acting by and through the board, and shall be signed by the superintendent. The secretary-treasurer may attest any such contract, and affix the seal of the municipality thereto. The superintendent shall make and keep full and proper books and records, subject to the supervision and direction of the board, and the provisions of applicable contracts.

Section 22. ELECTRIC PLANT FUND.

All moneys derived from the issuance of bonds under this Act, together with any governmental grant made in connection therewith, and all receipts from electric service or any other operation of the board shall be deposited, in a

separate bank account or accounts, separate from all other municipal funds, and adequate records shall be kept of all such receipts and their sources.

Section 23. DISPOSITIONS OF MONEYS RECEIVED FROM THE ISSUANCE OF BONDS.

All moneys received from the issuance of bonds shall be used solely to defray the cost of acquiring or improving an electric plant, except that such proceeds may in the discretion of the board also be used for the payment of the interest or principal on the bonds during the first two years following the date of issuance of such bonds. The cost of the electric plant shall include all costs of acquisition or improvement, including all preliminary expenses described in Section 14, the cost of acquiring all property, franchises, easements, and rights in the judgment of the board necessary or convenient therefor, engineering and legal expenses, for estimates of cost and revenues, expenses for plans, specifications and surveys, other expenses incident or necessary to determing the feasibility or practicability of the enterprise, administrative expense, and such other expense as may be incurred in the financing herein authorized, the acquisition or improvement of the electric plant, the placing of such plant in operation, including the creation of a cash working fund, and the performance of the things herein required or permitted in connection therewith.

Section 24. DISPOSITION OF REVENUES.

(1) The board shall devote all moneys derived from any source other than the issuance of bonds to or for the payment of all operating expenses; bond interest and retirement and sinking fund payments; the acquisition and improvement of the electric plant; contingencies, the payment of other obligations incurred in the operation and maintenance of the electric plant and the furnishing of electric service; the redemption and purchase of electric plant bonds, in which case such bonds shall be canceled; the creation and maintenance of a cash

working fund; the payment of an amount to the general funds of the municipality not to exceed a cumulative return of six percent (6%) per annum of the equity, if any, of the municipality; and payments to Kentucky or another state, the county or counties, and school districts and other special taxing districts and other municipalities in which the board operates, if any, and to the general funds of the municipality the same respective amounts as provided in subsection (10) of Section 3, or any other amounts which the board may be required by the Tennessee Valley Authority or other governmental agencies to collect as tax equivalents for said taxing units.

(2) Any surplus thereafter remaining, after establishment of proper reserves, if any, shall be devoted solely to the reduction of rates. The equity of the municipality shall be the purchase price of the electric plant, less the face value of outstanding bonds, or, if there be no purchase price, the original cost of the plant as defined by the Federal Power Commission, less accrued depreciation, less the face value of the outstanding bonds. The payment of bonds or the acquisition or improvement of property from the receipts derived from electric service or any other operation of the board as such shall not be considered to increase the equity or investment of the municipality.

Section 25. TAX EQUIVALENTS.

The tax equivalent for any year to be included in resale rates as required by subsection (10) of Section 3 shall be determined by the application of the current tax rate to the book value, as of the beginning of such year, of electric plant located in each taxing jurisdiction. "Book value" as used in this section means the cost of tangible plant as shown on the books of the municipality, less the amount of depreciation reserve shown on the books of the municipality, and "year" as herein used means the twelve-month period ending June 30. The book value so determined shall be in accordance with

standard accounting practices. It shall be the duty of the utility board of each municipality, on or before October 1 of each year, to certify to the Department of Revenue the book value, as of July 1 immediately preceding, of the electric plant owned by the municipality in each taxing jurisdiction on said July 1. Upon the receipt of such certification of any utility board the Department of Revenue shall in turn promptly certify to said board the tax equivalent of the municipality for the same year required to be included in resale rates by subsection (10) of Section 3. Tax equivalents for any year shall be certified and distributed within thirty (30) days after the close of said year.

Section 26. SERVICES RENDERED TO MUNICIPALITY.

The board shall charge the municipality and all departments and works thereof for any electric service furnished to them at the rates applicable to other customers taking service under similar conditions. Revenues derived from such service shall be treated as all other revenues.

Section 27. RECORDS AND REPORTS OF THE BOARD.

The board shall keep a complete and accurate record of all meetings and actions taken, and of all receipts and disbursements, and shall make reports of the same to the governing body at stated intervals, not to exceed one year. Said report shall be in writing, shall be filed in open meeting of the governing body, at stated intervals, not to exceed one year, and a copy shall be filed with the municipal clerk or recorder.

Section 28. CONDEMNATION.

Any municipality proceeding under this act may, by and through its board condemn any land, easements or rights-of-way either on, under or above the ground, and any existing electric plant for any and all purposes necessary in connection with construction, operation and maintenance of an electric plant or improvements thereto, except that such power of

condemnation shall not include the right to condemn any central generating station or transmission lines used in the production and transmission of electric energy for use outside the area to be served by the municipal electric plant. The proceedings shall be brought and title to the property so condemned shall be taken in the name of the municipality. Such condemnation proceedings shall be conducted in the same manner as is provided for condemnation of land for road purposes by fiscal courts.

Section 29. GENERAL OBLIGATION BONDS.

Any municipality is hereby authorized and empowered to issue general obligation bonds under the limitations imposed by Section 158 of the Constitution for carrying out the purposes of this Act, but general obligation bonds shall not be issued for such purposes without the assent of two-thirds of the voters voting in an election conducted in the manner set out in Section 4.

Section 30. JURISDICTION OF OTHER AGENCIES.

(1) It shall not be necessary for any municipality proceeding under this Act and contracting for electric service with any Federal agency to obtain any certificate of convenience and necessity, license, permit, or other authorization, from any board, commission, or other agency of Kentucky, in order to acquire, maintain and operate any electric plant.

(2) Neither the Public Service Commission of Kentucky nor any other board or commission of like character shall, unless in the future expressly authorized, have jurisdiction over such municipality in the management and control of any electric plant whether within or without its boundaries, including the regulation of rates or charges, except that the Public Service Commission may, when it determines that such action is in the public interest and will not jeopardize the financial structure of the system, require any such municipal-

ity to extend service within or without its boundaries to customers not previously served by such municipality.

(3) Bonds may be issued under this Act without respect to the provisions of any laws requiring the prior approval of any court, commission, board, or regulatory authority.

Section 31. ELECTION BEFORE CONSTRUCTING COMPETING PLANT.

Where an existing electric distribution system is rendering service within the limits of any municipality, that municipality, before entering upon the construction of any competing or duplicating facilities within its limits, shall comply with the provisions of Section 3 and shall submit the question of whether said facilities shall be constructed to an election of the qualified voters of said municipality to be conducted in the manner set out in Section 4. The Election Resolution shall in such case state that the governing body of the municipality has determined that it is to the best interests of the municipality to proceed with the construction of an electric distribution system to be owned and operated by the municipality under the terms of this Act. Following the Election Resolution the County Clerk shall have printed on the ballot the question "Are you in favor of the construction of the electric distribution system in accordance with the Election Resolution?" Opposite the question the County Clerk shall have printed the words "Yes" and "No" with the proper squares for stamping the cross mark to indicate preference. The governing body shall have power to proceed with the construction of the electric distribution system, if a majority of the qualified voters who vote in such an election vote in favor of the construction of the electric distribution system in accordance with the Election Resolution.

Section 32. EXCISION OF UNCONSTITUTIONAL OR INEFFECTIVE PARTS OF ACT.

The sections, clauses, sentences and parts of this Act are severable, are not matters of mutual essential inducement,

and any of them shall be exscinded, if this Act would otherwise be unconstitutional or ineffective; it is the intention to confer upon every municipality the whole or any part of the powers of this Act provided for, and if any one or more sections, clauses, sentences and parts of this Act shall be adjudged invalid, such judgment shall not invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provision or provisions so held invalid, and the inapplicability or invalidity of any section, clause, sentence or part of this Act in any one or more instances shall not be taken to affect its applicability or validity in any other instance.

Said Substitute is as follows, viz.:

An Act relating to the establishment and operation of electric power systems and facilities by cities and counties.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. DEFINITIONS.

As used in this Act, unless the context requires otherwise:

(1) "Acquire" shall mean and include construct, acquire by purchase, by lease, devise, gift, or the exercise of the right of eminent domain in the manner now or hereafter provided by law for the exercise thereof and acquisition by any other mode.

(2) "Board" shall mean a board of public utilities established pursuant to Section 15.

(3) "Bonds" shall mean either general obligation bonds or revenue bonds.

(4) "Constitution" shall mean the Constitution of Kentucky.

(5) "Electric plant" shall mean and include any plant, works, systems, facilities and properties (including poles, wires, stations, transformers, and any and all equipment and machinery), together with all parts thereof and appurte-

nances thereto, used or useful in the generation, production, transmission or distribution of energy.

(6) "Energy" shall mean and include any and all electric energy no matter where or how generated, produced, transmitted or conveyed.

(7) "Electric service" shall mean the furnishing of electric power and energy for any purpose for which electric power and energy can be used.

(8) "General obligation bonds" shall mean direct or general obligations of any municipality, issued within the limits and subject to the provisions of Section 157 and 158 of the Constitution.

(9) "Governing body" shall mean the board, council, commission, fiscal court, or other general governing body of the municipality.

(10) "Governmental agency" includes the United States, the President, the Federal Works Agency, the Federal Lending Agency, Tennessee Valley Authority, or any other similar agency, instrumentality or corporation of the United States, or of Kentucky or any political subdivision thereof, created by or pursuant to any Act of Congress or by State legislation.

(11) "Improve" shall mean and include construct, reconstruct, improve, extend, enlarge, alter, better and repair.

(12) "Improvement" shall mean any improvement, extension, betterment or addition to any electric plant.

(13) "Law" shall mean any statute of this State.

(14) "Mayor" shall mean the mayor of any class city unless there be a city manager, then it shall mean the city mangaer, or the county judge of any county.

(15) "Municipality" shall mean any county, city, town or village or municipal corporation of any and every class in the Commonwealth of Kentucky.

(16) "Revenue bonds" shall mean obligations payable solely from the revenues derived from the operation of an

electric plant and such bonds shall not constitute an indebtedness of any municipality within the meaning of the provisions or limitations of the Constitution.

(17) "Net revenues" shall mean revenues remaining after payments of (a) all payments provided for herein to be made to the State, county, school or other taxing district, (b) the payments of salaries, and premiums on bonds of officers and employees of the board; and (c) all other ordinary and necessary operating expenses of the board in the operation of the electric plant including reserves for depreciation.

Section 2. SCOPE OF ACT.

(1) The provisions of this Act shall not apply in the case of a municipality now operating an electric plant under any existing law, but the governing body of any such municipality may elect to operate under the provisions of this Act, in which case, from the time of the exercise of such election and the appointment of a board hereunder, the electric plant of such municipality shall be operated under the provisions of this Act.

(2) This Act is intended to be the complete law of this State with respect to municipalities acquiring electric plants after the effective date of this Act, and the complete law of this State with respect to the operation of electric plants acquired by any municipality after the effective date of this Act. Any proceedings heretofore taken by any municipality relating to the subject matter of this Act, whether or not commenced under any other law, may be discontinued by the municipality and new proceedings instituted under this Act.

Section 3. POWER OF BOARDS.

Except as otherwise specifically provided in this Act, the board of the municipality shall exercise all powers conferred upon the municipality by this Act. Any board operating under the provisions of this Act shall have the legal power and capacity to perform any act not repugnant to law and shall have the express power and capacity to do any and

all acts or things necessary or convenient for the carrying out of the purposes of this Act, including, but not by way of limitation, the following express powers:

(1) Acquire, hold and dispose of property, real and personal, tangible and intangible necessary or incident to the proper conduct of its business.

(2) Construct, acquire, own, lease, operate, maintain and improve electric plant or plants as defined in Section 1 of this Act, and may provide electric service to any user or consumer within and without the boundaries of any municipality, and charge and collect reasonable rates therefor.

(3) Construct, acquire, own, lease, operate, maintain and improve distribution or transmission line or lines, or generating plant or plants, together with all necessary and appropriate facilities, equipment and appurtenances, individually or jointly with any other municipality or Rural Electric Cooperative Corporation organized under the laws of Kentucky for the purpose of generating, distributing, or transmitting electric power or energy and connecting their respective electric plants with a wholesale source of supply, and in the case of any such joint action, such municipalities and Rural Electric Cooperative Corporations may provide by contract for the method of holding title, for the allocation of responsibility, for operation and maintenance and for the allocation of expenses and revenues.

(4) Construct, own, lease, operate and control any and all works, lines, buildings and other facilities across, along, or under any street or public highway, and over any lands which are now or may be the property of the Commonwealth or of any county or municipality within this Commonwealth. The board shall, however, at its own expense, restore any such street or highway to its former condition and state as nearly as may be possible and shall not use the same in a manner as to impair its usefulness or to interfere with or obstruct the maintenance thereof. Before exercising these powers the board shall obtain a permit or consent or approval in writing

from the governing authority of the municipality, or the fiscal court, or the Department of Highways having appropriate jurisdiction over any and all of such respective streets or public highways.

(5) Accept gifts, grants of property, real or personal, including money, from any person, municipality, or federal agency, or both, and to accept voluntary and uncompensated services; provided, however, that when engineering services are required by any municipality or any board or any appraisers, or board of appraisers, appointed pursuant to the provisions of this Act to render any services authorized or required or incident to surveys, plans, estimates of cost, or the valuation of property, or in the preparation of reports authorized by this Act, no engineer who is engaged in whole or in part in the business of buying or selling any electric equipment, machinery, fixtures, materials, supplies, or the sale or purchase of bonds shall be eligible for employment or for any services whatsoever under the provisions of this Act. The limitations herein above provided shall also apply to any firm of engineers and to any member of any firm of engineers, if the firm or member of the firm is engaged, in whole or in part in the business of buying or selling any electric machinery, equipment, fixtures, materials, supplies, or the sale or purchase of bonds; and no such firm or member of such firm shall be eligible for employment or for any service whatsoever under the provisions of this Act. Provided, further, that the provisions of this section shall not be construed to prohibit the board or the governing authority of any municipality from obtaining the advice or services of any engineer in the regular employment of the State or any Federal governmental agency.

(6) Contract debts and borrow money for the acquisition or improvement of any electric plant, issue bonds to finance such acquisition or improvement, provide for the rights of holders of the bonds and to secure the bonds as hereinafter provided, and pledge all or any of the net reve-

nues derived from electric service to the payment of such debts or repayment of money borrowed.

(7) Acquire, hold, and, subject to the provisions of Section 29 and the applicable provisions of any bonds or contracts, dispose of any property, real or personal, tangible or intangible, or any right or interest in any such property in connection with any electric plant, and whether or not subject to mortgages, liens, charges, or other encumbrances.

(8) Make contracts and execute instruments containing such covenants, term, and conditions as in the discretion of the board may be necessary, proper, or advisable for the purpose of obtaining loans from any source, or grants, loans or other financial assistance from any governmental agency, including, but without limitation, covenants, terms, and conditions with respect to the acquisition or construction of any electric plant or any improvement thereto with money in whole or in part borrowed from or granted by any governmental agency; make all other contracts and execute all other instruments as in the discretion of the board may be advisable in or for the furtherance of the acquisition, improvement, operation and maintenance of any electric plant and the furnishing of electric service; and carry out and perform the covenants, terms, and conditions of all such contracts or instruments.

(9) Enter on any lands, waters and premises for the purpose of making surveys, soundings and examinations in connection with the acquisition, improvements, operation or maintenance of any electric plant and the furnishing of electric service.

(10) Do all acts and things necessary or convenient to carry out the powers expressly given in this Act.

(11) Make any contracts necessary or convenient for the full exercise of the powers herein granted, including, but not limited to, contracts for either the purchase or sale or both the purchase and sale of electric energy or power, and contracts for the acquisition or improvement of all or any part of

an electric plant; and, in connection with any such contract with a governmental agency, the board may stipulate and agree to such covenants, terms, and conditions as the governing body deems appropriate including, but without limitation, covenants, terms, and conditions with respect to the resale rates, financial and accounting methods and the manner of disposing of the revenue of the electric plant conducted and operated by the board, except that the board shall not have power to contract with the Tennessee Valley Authority or any other governmental agency for the purchase and resale of electric energy or power unless the contract shall provide that the resale rates of the board for electric service or electric energy shall be sufficient to cover all operating expenses, interest charges, and bond payments, other expenses, and payment to the state, any county, any school district, any municipality, and any other special taxing district in which the board operates, of amounts determined as provided in Section 25 of this Act; nor unless such contract provides that the payments to such taxing jurisdictions be made to them as hereinafter prescribed.

(12) Acquire a franchise to furnish electric service to any other municipality or county or inhabitants thereof, and to contract with any other municipality or county to furnish it with electric service. Such contracts may be entered into by the governing bodies of the other cities or county.

Provided, however, that before a board or municipality shall have authority to condemn an existing electric plant under the provisions of this Act or to enter upon the construction of any duplicating facilities under the provisions of this Act, the board shall notify the owner of the existing electric plant, hereinafter referred to as the owner, in writing of its desire to purchase the plant or that portion thereof located or situated within said municipality and of its desire to enter into an agreement as to the value thereof. If no fair and reasonable price and terms of purchase and sale shall be agreed upon between the board and the owner within sixty

(60) days after the aforesaid notice has been given the owner and if either party desires that further efforts to determine a fair price and terms of purchase and sale be made, a board of appraisers consisting of two members shall be appointed, one by the board and the other by the owner. Such appointments shall be made within thirty (30) days after the expiration of the time given the board and the owner to agree upon the value of the existing electric plant, or that part thereof which the board desires to purchase. Should the two members of the board of appraisers be unable to agree within thirty (30) days after their appointment upon a fair and reasonable price, a third member of the board of appraisers shall be selected by them. In the event the two appraisers cannot agree upon the third member of the board of appraisers, then upon application of either the board or the owner, the Governor of the Commonwealth shall name the third appraiser. The board of appraisers shall consult with the State Public Service Commission in its efforts to arrive at a fair price for the electric plant, and the State Public Service Commission shall make available to the board of appraisers its facilities and any information in its possession bearing on the value of the electric plant. It shall be the duty of the board of appraisers to make a survey of, appraise and submit to the board and the owner in writing, its valuation of the electric plant. The board shall file its written report within six (6) months from the date of the appointment of the first two members. The value fixed by two of the three members of the board of appraisers shall be the finding of the board. In the event two of the three members cannot agree within six months after the appointment of the first two members, the entire first board, unless given further time by agreement between the board and the owner, shall be discharged and a second board, if desired by both the board and the owner, may be appointed as provided herein, which shall make its final report within six (6) months after the appointment of the first two members thereof. It shall be the duty of the board to

pay all compensation to the member appointed by it, and the duty of the owner to pay all compensation to the member appointed by it, and the board and the owner shall each pay one-half of the compensation which may be due the third member and one-half of all other costs incurred in connection with the work of the board of appraisers. These costs may be included as a part of the purchase price agree upon. Neither the board nor the owner shall be required to accept the report of the board of appraisers. If the owner fails or refuses to appoint an appraiser or appraisers as and within the time limits hereinabove provided, the board may proceed to exercise all of the powers granted by this Act without waiting for the expiration of all or any part of the time authorized for making the appraisal herein provided for.

After the board shall have complied with the provisions of this Act, it may proceed in the manner and subject to the terms and conditions hereinafter in this Act provided to (a) enter into a contract with the owner for the purchase from the owner of the electric plant; (b) institute condemnation proceedings and acquire the electric plant by the exercise of the powers of eminent domain; or (c) proceed to construct or cause to be constructed an electric plant. The governing authority of the municipality shall determine which of the three courses hereinabove authorized shall be followed by the board.

Section 4. EMINENT DOMAIN PROCEEDINGS.

Any board proceeding under this Act shall have the right to acquire by the exercise of the power of eminent domain, all lands, easements, rights of way, either upon or under or above the ground, any existing electric plant, or that part of an electric plant within the corporate limits of such city, and any and all real estate, franchise or personal property reasonably necessary or desirable in connection with the construction or operation or maintenance of electric plants or improvements or extensions thereto; and, the right of such board to acquire such electric plant and facilities hereby is declared

to be a superior and paramount right and superior and paramount to any other public use. Provided, however, that no board, by exercise of the power of eminent domain, shall have the right to acquire any central generating plant or station or sub-station or transmission lines, dams, or other property or facilities primarily and principally used by any public or private utility in the production and transmission of electric energy by such public or private utility for use outside the area to be served by the municipal electric plant; and, provided further, that in the eminent domain proceedings to acquire from any public or private utility an electric plant, the property condemned must include all of the property owned by the utility within the city limits which is used or useful in connection with the business, of rendering electric service, subject only to the proviso next hereinabove in this section stated.

The condemnation or eminent domain proceedings shall be brought in the name of the board, and title to the property so condemned shall be taken in the name of the board.

When the board of any municipality authorized to acquire, construct, own or operate an electric plant under the provisions of this Act, shall be unable to contract with the owner of any land, easements, rights of way, electric plant, or any facilities or property needed by such board for its use for the purposes thereof and desires to exercise the right of eminent domain, the board shall file in the office of the clerk of the county court a particular description of the property sought to be condemned, and may apply to the county court to appoint commissioners to assess the damages the owner or owners thereof may be entitled to receive, and thereupon said court shall appoint three impartial housekeepers of the county who are land owners, and who shall be sworn to faithfully and impartially discharge their duties under this law.

It shall be the duty of said commissioners to ascertain and determine the value of the property taken, the value of real estate, tangible personal property, intangible property

and franchises if any such value is found to exist shall be determined and stated separately in their report; and they shall also award damages, if any, resulting to the remainder of the electric plant or system of the owner, considering the purposes for which the property is taken, and the amount of said damages, if any, shall be stated separately in their report. They shall return a report, in writing, to the office of the clerk of said court, stating their award, and shall describe in their report the property condemned, give the name or names of the owners, and whether non-residents of the State, infants, of unsound mind, or married women.

Upon the application of said board, and upon filing such affidavits as may be necessary, the clerk of said court shall issue process against the owner or owners to show cause why the said report should not be confirmed, and shall make such orders as to non-residents and persons under disability as are required by the Civil Code of Practice in actions against them in the Circuit Court.

At the first regular term of the county court, after the owners shall have been summoned the length of time prescribed by the Civil Code of Practice before an answer is required in Circuit Court, it shall be the duty of the court to examine said report, and if it shall appear to be in conformity to this law, and to the extent that no exceptions have been filed thereto by either part, it shall confirm said report as against the owners not excepting.

When exceptions shall be filed by either party, the court shall forthwith cause a jury to be impaneled to try the issues of fact made by the exceptions. In assessing the damages, the jury shall be governed by the rule hereinabove prescribed governing the commissioners and their report. If sufficient cause be not shown for setting aside the verdict, the court shall render judgment in conformity thereto, and shall make such orders as may be proper for the conveyance of the title to the property condemned upon the payment of the damages assessed. Either party may appeal to the circuit court, by

executing bond as required in other cases, within thirty (30) days, and the appeal shall be tried de novo, upon the confirmation of the report of the commissioners by the county court, or the assessment of damages by said court, as herein provided, and the payment to the owners of the amount due, as shown by the report of the commissioners when confirmed, or as shown by the judgment of the county court when the damages are assessed by said court, and all cost adjudged to the owners, the board shall be entitled to take possession of said property, and to use and control the same for the purpose for which the property was condemned as fully as if the title had been conveyed to it. But when an appeal shall be taken from the judgment of the county court by the board, it shall not be entitled to take possession of the property condemned until it shall have paid into court the damages assessed and all costs. All money paid into court under the provisions of this law shall be received by the clerk of the court, and held subject to the orders of the court, for which the clerk and his sureties on his official bond shall be responsible to the persons entitled thereto, and the court may require further additional security for safeguarding the money.

In all cases where there are conflicting claimants to the property condemned or any part thereof, and where all such claimants are before the county court in the condemnation proceedings, the condemnor, after the damages have been assessed in the county court, may by motion have the case transferred to the circuit court of the county in which the condemnation proceedings are pending, for the purpose of having the rights of the respective claimants in the property condemned determined, and upon filing the order of transfer in the office of the clerk of said circuit court, the condemnor may pay the damages assessed in the county court to the master commissioner of said circuit court, to be by him held for the benefit of, and paid over to such claimants as the

circuit court, or the Court of Appeals, on appeal, may determine are entitled thereto. The condemnor, upon making such payment to said commissioner, may immediately take possession of the property condemned in the same way as if payment had been made directly to the owners as provided by this section.

The circuit court clerk shall docket all such cases so transferred as other civil cases are docketed, and same shall thereafter proceed between said conflicting claimants to trial and judgment as if the action had originated between them in said court.

The transfer of any condemnation case as herein provided shall in no way affect the right of any party to the condemnation proceeding to appeal to the circuit court and thence to the Court of Appeals, as authorized by this Act, and by the laws relating to eminent doman proceedings by railroad companies.

The appeal from the county court shall be taken by filing with the clerk of the court to which the appeal lies a statement of the parties to the appeal, and a transcript of the orders of the county court, and thereupon the said clerk shall certify to the clerk of the county court that said appeal has been filed, and the clerk of the county court shall immediately transfer the original papers to the clerk of the court to which the appeal is pending; and if the owner on his appeal shall fail in the circuit court to increase the amount of damages awarded in the county court, he shall pay all the costs of the appeal; if the damages are increased in the circuit court, the other parties shall pay all the costs of the appeal. The same rule as to payment of costs shall apply when the appeal is prosecuted by the parties seeking to condemn the property. Either party may appeal from the judgment of the circuit court to the Court of Appeals, as provided by the laws governing eminent domain proceedings by railroad companies.

Section 5. ELECTION BY QUALIFIED VOTERS OF MUNICIPALITY.

Before any municipality shall have authority to (a) construct or cause to be constructed an electric plant, (b) acquire an electric plant by purchase, or (c) institute condemnation proceedings for acquiring by eminent domain an electric plant, or (d) issue revenue bonds for the construction, purchase, or acquisition of an electric plant, the question shall be submitted to the qualified voters of the municipality as hereinafter in this section provided.

(1) Before any municipality shall be authorized or empowered to purchase or establish and thereafter operate on electric plant, or to issue bonds therefor, the legislative body of such municipality shall pass an ordinance declaring it desirable that the municipality shall purchase or construct and operate a municipal electric plant, and if it is proposed to construct such electric plant, the board shall cause to be prepared by an engineer or engineers duly qualified and licensed under the laws of this Commonwealth, (a) the necessary and proper plans and specifications for the construction of the electric plant, (b) select the location therefor, (c) determine the size, type and method of construction thereof, (d) make the necessary estimates of the cost of construction and of the acquisition of the land and rights of way, and (e) a survey of all lands, structures, rights of way, franchises and easements, the acquisition of which is deemed necessary by said engineers and the board for the construction and operation of such municipal electric plant, all of which shall be approved by the board; and, provided further, that the question of whether or not revenue bonds shall be issued to provide for the payment of the cost thereof shall be submitted to the qualified voters of such municipality at the next regular November election to be held in said municipality. The mayor shall certify such ordinance to the clerk of the county court, who shall, on the ballots provided

for use in the general November election in the municipality, if however there is no municipal election a separate ballot shall be provided, in which it is proposed to construct such electric plant and issue revenue bonds for the payment of the cost thereof, have printed thereon the question: "Are you in favor of the city constructing and operating a municipal electric plant in accordance with the plans and specifications adopted by the Electric Plant Board of ..... (here insert name of municipality) and the issuance of revenue bonds in the maximum amount of $..... (here insert maximum total face amount of bonds estimated by the board to be necessary to pay the cost of such plant, based upon the estimate hereinabove provided.)" And opposite the question he shall print "Yes" and "No," with the proper squares for stamping the cross mark to indicate preference.

The mayor of such municipality shall advertise such election and the object thereof at least forty-five (45) days next before the date of such election in the newspaper having the largest circulation in the city, and also by printed handbills posted in not less than four conspicuous places in each voting precinct in the municipality and at the court house door. All legal voters of such municipality shall be privileged to vote at such election. The city shall have no authority to construct a municipal electric plant, or to issue revenue bonds unless a majority of all the qualified voters voting in said election on this question vote in favor thereof.

(2) Any contract of a municipality for the purchase of an electric plant shall be conditioned upon the approval of the qualified voters of the municipality at an election held at the time and in the manner next hereinabove in clause one (1) of this Section provided, except that the clerk shall have printed on the official ballots, for the election the following: "Are you in favor of the City of ..... purchasing from ..... (insert the name of owner or owners) an electric plant at the price of $..... (clerk herein insert the amount of the agreed

purchase price) and the issuance of revenue bonds in the amount of $..... (herein insert total face amount of bonds required to pay the agreed purchase price).'' And opposite the question, he shall print ''Yes'' and ''No'', with the proper squares for stamping the cross mark to indicate preference.

(3) Before any municipality shall be authorized or empowered to institute condemnation or eminent domain proceedings to acquire an electric plant, the legislative body of such city shall pass an ordinance declaring it desirable that the municipality shall acquire by condemnation an electric plant, and shall describe in the ordinance the property which it deems necessary to be acquired, and there shall be submitted, in the manner hereinabove, in clause one (1) of this Section provided, to the qualified voters of the municipality at the next regular November election the following question: ''Are you in favor of the City of ..... (here insert name of city) acquiring an electric plant by the exercise of the power of eminent domain and the issuance of revenue bonds in an amount sufficient to pay the entire damages and costs of such acquisition.'' Opposite the question shall be printed ''Yes'' and ''No,'' with the proper squares for stamping the cross mark to indicate preference.

No municipality or Board shall have authority to purchase, construct, or acquire, or to institute condemnation proceedings for acquiring an electric plant, or to issue revenue bonds or other obligations or evidences of indebtedness for the payment of the costs thereof unless a majority of all the qualified voters voting in said election on the question vote in favor thereof. Elections held pursuant to the provisions of this Act shall be governed by the laws of this state relative to elections to the extent that such laws are not inconsistent herewith.

Section 6. ISSUANCE OF BONDS.

Any municipality, by action of its board, may issue and

sell revenue bonds, subject to the provisions of this Act, to pay cost of constructing or acquiring an electric plant.

Section 7. VALIDITY OF BONDS.

All bonds issued pursuant to this Act, bearing the signature of officers in office on the date of the signing thereof, shall be valid and binding obligations, notwithstanding that before the delivery thereof and payment therefor, any or all the persons whose signatures appear thereon shall have ceased to be officers of the municipality issuing the same. The resolution of the board shall contain a recital that the revenue bonds are issued pursuant to this Act, which recital shall be prima facie evidence of their validity and of the regularity of their issuance.

Section 8. LIMITATIONS OF ACTIONS.

Any action challenging the validity of any ordinance electing to operate under this Act or any election resolution, bond resolution, or election adopted or held hereunder, shall be brough within sixty (60) days from the date on which such ordinance or election resolution or bond resolution was adopted or election held, as the case may be, and, if not brought within such time, shall be forever barred.

Section 9. REVENUE BONDS NOT A GENERAL OBLIGATION OF MUNICIPALITY. No holder or holders of any revenue bonds issued under this Act shall have the right to compel any exercise of taxing power of the municipality to pay the bonds or the interest thereon. Each revenue bond issued under this Act shall recite in substance that the bond, including interest thereon, is payable solely from the revenue pledged to the payment thereof, and that the bond does not constitute a debt of the municipality within the meaning of any statutory or constitutional provision or limitation.

Section 10. BOND PROVISIONS.

(1) Bonds issued pursuant to this Act may be issued in one or more series, may bear such date or dates, may mature at such time or times, not exceeding forty (40) years from

their respective dates, may be in such denomination or denominations, may be in such form, either coupon or registered, may carry such registration and conversion privileges, may be executed in such manner, may be payable in such medium of payment, at such place or places, may be sold or hypothecated in such blocks, may be subject to such terms of repurchase or redemption of all or any of said bonds before maturity in such manner and at such price or prices, not exceeding one hundred and five and accrued interest, as may be fixed by the board prior to the sale of the bonds.

The board at any time may issue and sell revenue bonds to finance improvement or issue and sell refunding bonds for the purpose of providing funds for the payment of any outstanding bonds issued in accordance with the provisions of this Act. Such new bonds shall be issued, sold, and secured in accordance with the provisions of this Act for the issuance of the original revenue bonds, except no election shall be necessary or required to ascertain the will of the voters of the city. Should the board find that the bonds originally authorized will be insufficient to accomplish the purpose desired, additional bonds may be authorized and issued, subject to the same procedure and conditions as original revenue bonds.

(2) All revenue bonds issued pursuant to the provisions of this Act in the hands of bona fide holders shall have all the qualities and incidents of negotiable instruments under the law merchant. All bonds shall be sold to the highest responsible bidder at such time and place as shall have been fixed by the board in the notice of the sale of said bonds, which notice shall have been advertised once each week for at least two consecutive weeks in a newspaper of general circulation in said municipality. The board shall receive written, sealed competitive bids, which shall be publicly opened and read at the time and place specified in the notice of sale. The board may reject all bids and readvertise. No revenue bonds shall be sold for less than par, plus accrued interest, and no bonds

shall bear interest at a rate in excess of six per cent (6%) per annum, interest payable semi-annually.

After revenue bonds have been offered for sale by the Board, so in this Section of this Act provided, if no bid satisfactory or acceptable to the Board is received, the Board may sell, issue and deliver said bonds to any Federal governmental agency upon such terms, not in conflict with the provisions of this Act, as may be agreed upon between the Board and such Federal governmental agency; but the price paid therefor shall not be less than the bid price received from the highest responsible bidder.

Section 11. ADDITIONAL POWERS TO SECURE BONDS AND TO MAKE AGREEMENTS. In order to secure the payment of any of the bonds issued pursuant to this Act, and interest thereon, or in connection with such bonds, the board of any municipality shall have power as to such bonds, to the extent not inconsistent with the mandatory provisions of this Act:

(1) To pledge all or any part of the net revenues derived from sale of electric service;

(2) To provide for the terms, form, registration, exchange, execution and authentication of any bonds;

(3) To provide for the replacement of lost, destroyed, or multilated bonds;

(4) To covenant as to the use and disposition of the proceeds from the sale of such bonds;

(5) To covenant as to the rates and charges of the electric plant;

(6) To redeem such bonds, and to covenant for their redemption and to provide the terms and conditions thereof;

(7) To covenant and prescribe as to what happenings or occurrences shall constitute "events of default" and the terms and conditions upon which any or all of such bonds shall become or may be declared due before maturity and as

to the terms and conditions upon which such declaration and its consequences may be waived;

(8) To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation.

(9) To vest in a trustee or trustees the right to receive all or any part of the net income and revenue pledged and assigned to, or for the benefit of, the holder or holders of bonds issued hereunder, and to hold, apply and dispose of the same and the right to enforce any covenant made to secure or pay or in relation to the bonds; to execute and deliver a trust agreement or trust agreements which may set forth the powers and duties and the remedies available to such trustee or trustees and limiting the liabilities thereof and describing what occurrences shall constitute "events of default" and prescribing the terms and conditions upon which such trustee or trustees or the holder or holders of bonds of any specified amount or percentage may exercise such rights and enforce any and all such covenants and resort to such remedies as may be appropriate;

(10) To make covenants other than, and in addition to, the covenants herein authorized, of like or different character, necessary or advisable to effectuate the purpose of this Act; and

(11) To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants or duties.

Section 12. REMEDIES OF ANY HOLDER OR HOLDERS OF BONDS. Any holder or holders of bonds issued pursuant to this Act, including a trustee or trustees for holders of such bonds, shall have the right, in addition to all other rights;

(1) By action in court, to enforce his or their rights against the board, and any other proper officer, agent or employee, including, but without limitation, the right to

require the board, and any proper officer, agent or employee thereof, to fix and collect rates and charges adequate to carry out any agreement as to, or pledge of, electric plant revenues, and to require the board and any officer, agent or employee thereof to carry out any other covenants and agreements and to perform its and their duties under this Act; and

(2) By action in equity to enjoin any act or thing which may be unlawful or a violation of the rights of such holder of bonds.

Section 13. RECEIVER, APPOINTMENT, POWERS AND DUTIES.

If there is a default in the payment of the principal or interest of any bonds issued pursuant to this Act, any court having jurisdiction may, upon the petition of the holders of not less than twenty-five per cent (25%) of the oustanding bonds, appoint a receiver to administer said electric plant on behalf of the board, with power to charge and collect rates sufficient to provide for the payment of any bonds or obligations outstanding against said electric plant and for the payment of the operating expenses and to apply the income and revenues in conformity with this Act.

Section 14. PRELIMINARY EXPENSES.

(1) All expenses incurred by the board or the governing body of any municipality in the making of surveys, estimates of cost and of revenues, employment of engineers, attorneys, or other employees, the giving of notices, taking of options, selling of bonds, and all other preliminary expenses of whatever nature which such board or governing body deems necessary in connection with or precedent to the acquisition or improvement of any electric plant and which it deems necessary to be paid prior to the issuance and delivery of the bonds issued pursuant to the provisions of this Act, may be met and paid out of the general fund of said municipality not otherwise appropriated, or from any other available fund.

(2) All such payments from the general or other funds of the municipality shall be considered as temporary loans and shall be repaid immediately upon sale and delivery of the bonds, and claim for such repayment shall have priority over all other claims against the proceeds derived from the sale of such bonds.

Section 15. BOARD OF PUBLIC UTILITIES. Any municipality desiring to acquire and operate an electric plant under the provisions of this Act or any municipality now owning and operating an electric plant may elect to operate under the provisions of this Act by enacting an ordinance declaring therein the desire and intention of the municipality to accept and operate under the provisions of this Act and by providing in said ordinance that the municipality accepts and agrees to all of the provisions of this Act, and to all of said provisions as they may be from time to time amended by the Acts of the General Assembly of Kentucky. The ordinance shall further authorize the mayor or chief executive to appoint a board, subject to the approval of the appointments by the governing body of the municipality as hereinafter in this Act provided. Upon the passage of such ordinance the mayor or chief executive of any such municipality may, with the approval of the governing body of the municipality, appoint a board of public utilities, consisting of four (4) residents of the municipality who have resided therein for not less than one year next preceding the date of the appointment. Said board must be appointed and qualified before the municipality shall have any authority to proceed further under the provisions of this Act. Said board, when so appointed and qualified, shall be and hereby is declared to be a body politic, and corporate, with perpetual succession; and said body may contract and be contracted with, sue and be sued, in and by its corporate name, and have and use a corporate seal. The name of said board shall be "Electric Plant Board of the City of ..... (The name of the municipality to be inserted.)

(2) No person shall be appointed a member of the board who has, within the last two (2) years next before his appointment, held any public office, or who is related within the third degree to the mayor or any member of the governing body of the municipality.

(3) Neither the board nor the superintendent appointed by the board shall appoint to any subordinate office which it may create nor employ in any capacity any person who is related within the third degree to any member of the board or to the mayor of said municipality or to any member of the governing body of said municipality. No officer or employee of a municipality shall be eligible for such appointment until at least one (1) year after the expiration of the term of his public office, or employment, and, any payments made in violation of this clause of this Section shall be illegal and the superintendent and the board members voting for or approving or consenting to same shall be personally liable for the amount so paid and this liability may be enforced by suit by any citizen of the municiplity.

(4) The members of the board shall be citizens, taxpayers, and legal voters of such municipality and shall not at the time of the appointment be indebted to the municipality either directly or indirectly or be surety on the official bond of any officer of said municipality.

(5) If at any time during his term of office a member of the board becomes a candidate for or is elected or appointed to any public office, he shall automatically vacate his membership from the board, and another person shall be appointed to his place.

(6) The municipality shall pay the cost of securing bonds for board members from a surety company qualified to do business in Kentucky, and said members shall execute bond in an amount required by resolution of the governing body, and conditioned upon the faithful performance of their official duties.

(7) Each member of the board shall qualify by taking the oath required by Section 228 of the Constitution.

Section 16. COMPENSATION OF BOARD.

(1) The salary of each member of a board of public utilities shall be fixed by the governing body of the municipality, as follows:

(a) For each member of a board controlling a plant which furnishes electric service to a city of the first class, at not exceeding $1,500 per annum;

(b) For each member of a board controlling a plant which furnishes electric service to a city of the second class, at not exceeding $1,000 per annum;

(c) For each member of a board controlling a plant which furnished electric service to a city of the third class, at not exceeding $750 per annum; and

(d) For each member of any other board, at not exceeding $300 per annum.

(2) Such salaries, as well as the salary of the secretary-treasurer shall constitute a cost of operation and maintenance of the electric plant.

(3) The governing body of the municipality may, by resolution or ordinance, provide that the municipality shall not be liable for the payment of any salary or compensation of any of the members of said board, or for the payment of the salary or compensation or expenses of any person employed by said board, and that such salaries, compensation and expenses and any and all liabilities, of whatever kind or character incurred by the board or any officer or employee thereof, shall be payable solely and only out of revenues obtained by said board under the provisions of this Act, and said liabilities shall then be so limited.

Section 17. TERM OF BOARD MEMBERS; VACANCIES.

The original appointees shall serve for one, two, three and four years respectively, from the date of appointment,

as the said mayor or chief executive officer shall designate. Successors to retiring members so appointed shall be appointed for a term of four years in the same manner, prior to the expiration of the term of office of the retiring members. In addition to the members so appointed, the said mayor or chief executive officer shall also, with the approval of the governing body, designate a member of such governing body, or in his discretion the city manager, to serve as a fifth member of the board. The term of such member shall be for such time as the appointing officer may fix, but not beyond such appointee's term of office in such governing body, or his employment as city manager. Appointments to complete unexpired terms of office shall be made in the same manner as original appointments.

Section 18. BOARD MEETINGS.

A majority of the board shall constitute a quorum and the board shall act by vote of a majority present at any meeting attended by a quorum. Vacancies in the board shall not affect its power or authority so long as a quorum remains. Within ten (10) days after appointment and qualification of members, the board shall hold a meeting and elect a chairman. The board shall at the same time elect a secretary-treasurer, and shall fix his compensation. The board shall hold public meeting at least once each month, at such regular time and place as the board may determine. Changes in such time and place of meeting shall be made known to the public as far in advance as practicable. Any special meeting may be called by the chairman or by two members of the board, but, if such special meeting is called, written notice shall be sent to all members of the board by the chairman or secretary-treasurer. Except as otherwise expressly provided the board shall establish its own by-laws and rules of procedure.

Section 19. REMOVAL OF BOARD MEMBERS.

Any member of the board may be removed from office upon a vote of a majority of the members of the governing body of the municipality for inefficiency, neglect of duty, misfeasance, nonfeasence, or malfeasance in office.

Section 20 SUPERVISION AND CONTROL OF THE ELECTRIC PLANT.

(1) After a board has been appointed and qualified, it shall have charge of the general supervision and control of the acquisition, improvement, operation and maintenance of the electric plant of the municipality. The board shall employ an electric plant superintendent (herein called "superintendent"), who shall be qualified by training and experience for the general superintendence of the acquisition, improvement and operation of the electric plant. His salary shall be fixed by the board. The superintendent shall be removable by the board for inefficiency, neglect of duty, misfeasance, or malfeasance in office. He shall be required to execute a bond, in a sum to be determined and approved by the board, conditioned upon the faithful performance of his official duties. The cost of the bond may be charged as an expense of the operation of the electric plant.

(2) Within the limits of the funds available therefor, all powers of a municipality to acquire, improve, operate and maintain, and to furnish electric service, and all powers necessary or convenient thereto, conferred by this Act, shall be exercised on behalf of the municipality by the board and the superintendent, respectively. Subject to the provisions of applicable bonds or contracts, the board shall determine programs and make all plans for the acquisition of the electric plant, shall make all determinations as to improvements, rates and financial practices, may establish such rules and regulations as it deems necessary or appropriate to govern the furnishing of electric service, and may disburse all moneys available in the electric plant fund hereinafter estab-

lished for the acquisition, improvement, operation and maintenance of the electric plant and the furnishing of electric service.

(3) A copy of the schedule of the current rates and charges in effect from time to time and a copy of all rules and regulations of the board relating to electric service shall be kept on public file at the main and all branch offices of the electric plant and also in the office of the municipal clerk or recorder. The superintendent shall have charge of all actual construction, the immediate management and operation of the electric plant and the enforcement and execution of all rules, regulations, programs, plans and decisions made or adopted by the board.

(4) The superintendent shall appoint all employees and fix their duties and compensation subject to and with the approval of the board. Subject to the limitations and provisions of this Act, the superintendent, with the approval of the board, may acquire and dispose of all property real and personal, necessary to effectuate the purposes of this Act. The title to all property purchased or acquired shall be taken in the corporate name of the board.

(5) The superintendent shall let all contracts, subject to the approval of the board, but may, without such approval, obligate the electric plant on purchase orders up to an amount to be fixed by the board, not to exceed five hundred dollars. All contracts shall be in the corporate name of the board and shall be signed by the superintendent and and attested by the secretary-treasurer or chairman of the board. The superintendent shall make and keep or cause to be made and kept full and proper books and records, subject to the supervision and direction of the board, and the provisions of applicable contracts.

Section 22. ELECTRIC PLANT FUND.

All moneys derived from the issuance of bonds under this Act, together with any governmental grant made in con-

nection therewith, and all receipts from electric service or any other operation of the board, shall be deposited in a separate bank account or accounts, separate from all other municipal funds, and adequate records shall be kept of all such receipts and their sources.

Section 23. DISPOSITION OF MONEYS RECEIVED FROM THE ISSUANCE OF BONDS.

All moneys received from the sale and issuance of bonds shall be used solely to defray the cost of acquiring or improving an electric plant, except that such proceeds may in the discretion of the board also be used for the payment of the interest on the bonds during the first two (2) years following the date of issuance of such bonds. The cost of the electric plant shall include all cost of acquisition or improvement, including all preliminary expenses described in Section 14; the cost of acquiring all property, franchises, easements, and rights which, in the judgment of the board, are necessary or convenient; engineering and legal expenses; expenses for estimates of cost and revenues; expenses for plans, specifications and surveys; other expenses incident or necessary to determining the feasibility or practicability of the enterprise; administrative expense; and such other expense as may be incurred in the financing herein authorized, the acquisition or improvement of the electric plant, the placing of such plant in operation, including the creation of a cash working fund, and the performance of the things herein required or permitted in connection therewith.

Section 24. DISPOSITION OF REVENUES.

(1) The board shall devote all moneys derived from any source other than the issuance of bonds to or for the payment of all operating expenses; bond interest and retirement and sinking fund payments; the acqusition and improvement of the electric plant; contingencies; other obligations incurred in the operation and maintenance of the electric plant and the furnishing of electric service; the State, any county,

any school district, any municipality and any other special taxing district in which the board operates of the same respective amounts as provided in Section 25, or any other additional amounts which the board pursuant to its contract with the Tennessee Valley Authority or other governmental agencies collects as tax equivalents for any taxing jurisdiction if the board contracts with the Tennessee Valley Authority or any governmental agency for the purchase and resale of electrical energy, or if the board does not contract with the Tennessee Valley Authority or any other governmental agency for the purchase or resale of any electrical energy and if it has met all obligations imposed on it by this Act it may at the end of any twelve months ending June 30 transfer any surplus to the general fund of the municipality which authorized it; the redemption and purchase of electric plant bonds, in which case such bonds shall be cancelled; the creation and maintenance of a cash working fund; the payment of an amount to the general funds of the municipality not to exceed a cumulative return of six percent (6%) per annum of the equity, if any, of the municipality.

(2) After the establishment of proper reserves, if any, and after complying with the above provisions of this section any surplus proceeds shall be devoted solely to the reduction of rates. The equity of the municipality contracting with the Tennessee Valley Authority or other governmental agency for the purchase and resale of electrical power or energy shall be the purchase price of the electric plant, less the face value of outstanding bonds, or, if there is no purchase price, the original cost of the plant as defined by the Federal Power Commission, less accrued depreciation, less the face value of the outstanding bonds. The payment of bonds or the acquisition or improvement of property from the receipts derived from electric service or any other operation of the board as such shall not be considered to increase the equity or investment of the municipality.

Section 25. TAX EQUIVALENTS.

The state, each county, each school district, each municipality, and each other special taxing district in which any board operates shall each year be paid by such board from the proceeds of the sale of electrical energy an amount which shall be the same amount as that determined by multiplying the book value of the property of the electric system located in each such jurisdiction as of the beginning of each year, by the current tax rate of the jurisdiction. "Book value" as used in this section means the cost of tangible property plus additions, extensions and betterments, less reasonable depreciation or retirement reserve, and "year" as herein used means the twelve-month period ending June 30. The book value so determined shall be in accordance with standard accounting practices and the books and records of the board shall be subject to inspection by the Department of Revenue and to being adjusted by it if found not to comply with the conditions herein stated. It shall be the duty of the utility board of each municipality, on or before October 1 of each year, to certify to the Department of Revenue the book value, as of July 1 immediately preceding, of the electric plant owned by the municipality in each taxing jurisdiction on said July 1. Upon the receipt of such certification of any utility board the Department of Revenue shall make such investigation, hereinabove authorized, as it deems neccessary and promptly thereafter certify to said board the book value basis for determinig the amounts required to be paid taxing jurisdictions and to be included in resale rates by subsection (11) of Section 3. Such amounts for any year shall be paid to the respective taxing jurisdictions within thirty (30) days after the close of said year. Said taxing jurisdiction shall have a superior lien upon the proceeds for the sale of electrical energy for the amounts required by this section to be paid them.

Section 26. SERVICES RENDERED TO MUNICIPALITY.

The board shall charge the municipality and all departments and works thereof for any electric service furnished to them at the rates applicaple to other customers taking service under similar conditions. Revenues derived from such service shall be treated as all other revenues.

Section 27. RECORDS AND REPORTS OF THE BOARD.

The board shall keep a complete and accurate record of all meetings and action taken, and of all receipts and disbursements, and shall make reports of the same to the governing body at stated intervals, not to exceed one year. Said report shall be in writing, shall be filed in open meeting of the governing body, at stated intervals, not to exceed one year, and a copy shall be filed with the municipal clerk or recorder as a public record. An audit of the board's records shall be made annually by an auditor selected by the legislative body of the municipality. The expense of such an audit shall constitute an operating expense.

Section 28. GENERAL OBLIGATION BONDS.

Any municipality is hereby authorized and empowered to issue general obligation bonds under the limitations imposed by Section 158 of the Constitution for carrying out the purposes of this Act, but general obligation bonds shall not be issued for such purposes without the assent of two-thirds of the voters voting in an election conducted in the manner set out in Section 5.

Section 29. PROCEDURE TO DISPOSE OF ELECTRIC PLANT.

(1) The board or the municipality may sell or dispose of all or substantially all of that part of an electric plant located within the boundary of the municipality, owned and operated by it only by first complying with the following provisions, to-wit:

(a) The governing body shall adopt a resolution which shall state in substance that (1) the board has approved the proposed sale or disposition, (2) a full description of the property to be sold or disposed of, (3) the transferee or transferees or purchasers thereof, (4) the consideration to be received by the board for such sale or disposition, (5) the terms or conditions of such sale or disposition, (6) the date on which an election shall be held, which shall be the day of the regular November election.

(b) The resolution of the board shall be submitted to the governing body of the municipality; and if approved by the governing body of the municipality, the question shall be submitted to an election of the qualified voters in the manner provided in section 4 of this Act, except that the question to be printed on the official ballots for the general election shall be: "Are you in favor of the sale or disposition of the electric plant, for the consideration of $....." (here state the consideration). And opposite the question the words "Yes" and "No," with the proper squares for stamping the cross mark to indicate preference. If a majority of all of the qualified voters of the municipality voting in said general election on the question shall vote in favor of the sale or disposition of the electric plant, the sale shall be consummated, otherwise the sale or disposition shall not be made.

The board may dispose of all or any part of an electric plant located without the boundary of the municipality without an election or any other approval or authority than that in the board.

Section 30. EFFECTIVE DATE OF RESOLUTIONS AND ORDINANCE.

Every resolution or ordinance adopted by the governing body of any municipality under the provisions of this Act shall become effective from and after its passage, and no such resolution or ordinance shall be subject of any referendum or election as expressly provided in this Act.

Section 31. JURISDICTION OF OTHER AGENCIES.

(1) It shall not be necessary for any municipality proceeding under this Act to obtain any certificate of convenience and necessity, license, permit, or other authorization, from any board, commission, or other agency of Kentucky, in order to acquire, maintain and operate any electric plant.

(2) Neither the Public Service Commission of Kentucky nor any other board or commission of like character shall, unless in the future expressly authorized, have jurisdiction over such board or municipality in the management and control of any electric plant whether within or without its boundaries, or any power or authority over the regulation of rates or charges, except that the Public Service Commission may, when it determines that such action is in the public interest and will not jeopardize the financial structure of the system, require any such municipality to extend service within or without its boundaries to customers not previously served by such municipality. Its orders may be enforced by mandamus or mandatory injunction.

If and when any board, organized and operating under the provisions of this Act shall be required by the Public Service Commission to extend its services within or without its boundaries to customers not previously served by such municipality or board, revenue bonds may be issued and sold by the board in an amount sufficient for the board to obtain all money necessary to pay the cost of such extended service.

(3) Bonds may be issued under this Act without respect to the provisions of any laws requiring the prior approval of any court, commission, board, or regulatory authority.

Section 32. NO COMPETITION WITH RURAL ELECTRIC COOPERATIVE CORPORATION OR OTHER BOARDS.

No municipality or board operating an electric plant under the provisions of this Act shall enter into competition

with, or construct, maintain, or operate any facilities or service in competition with any Rural Electric Cooperative Corporation or electric plant operated by another municipality or board organized under the Laws of this State in any territory being served by any such Rural Electric Cooperative Corporation or other municipality or board; but any municipality or Board operating an electric plant under the provisions of this Act may enter into cooperative agreements with any such Rural Electric Cooperative Corporation or other municipality or board for a connection for cooperative service upon such terms and conditions as may be mutually agreed upon between any such municipality or board and any such Rural Electric Cooperative Corporation or other municipality or board. Such agreements may provide, but not by way of limitation, for exchange of electric service, the cooperative use of transmission lines and other facilities, and the common use or exchange of other service or facilities.

Section 33. ESTOPPEL.

Any municipality or board exercising any of the powers granted under this Act or any person accepting benefits conferred thereby shall be estopped to question the validity of any provision of the Act.

Section 34. LEGISLATIVE PURPOSE AND INTENT.

(1) It hereby is declared to be the legislative purpose and intent to vest in municipalities of all classes in this Commonwealth full power and authority to establish, acquire, own and operate electric plants; to empower and authorize said municipalities to contract with and acquire from the Tennessee Valley Authority or any governmental agency electric power or current for re-sale and to authorize and require the payment, out of earnings from the re-sale of such electric power or current of certain amounts to the state, counties, municipalities, school districts and other taxing districts in order that they may not suffer from loss of revenue resulting from tax exemption created by the transfer of prop-

erty from private to public ownership, and in the interest of the general welfare.

(2) It hereby is declared to be further legislative intent that this Act shall be complete law of this State with respect to municipalities acquiring electric plants, after the effective date of this Act, and the complete law of this State with respect to the operation of electric plants acquired by any municipality after the effective date of this Act; and that all laws and parts of laws in conflict herewith, to the extent of such conflict, hereby are repealed.

Section 35. SAVINGS CLAUSE.

The sections, clauses, sentences and parts of this Act are severable and are not matters of mutual essential inducement; and it is the intention of the General Assembly to confer upon every municipality the whole or any part of the powers of this Act provided; and if any one or more of these sections, clauses, sentences, or parts of this Act including those providing for payments to taxing jurisdictions shall be adjudged invalid or inoperative, such judgment shall not invalidate the remaining provisions of this Act, but shall be confined in its operation to the specific provision or provisions so held invalid or inoperative; and the inapplicability or invalidity of any section, clause, sentence or part of this Act in any one or more instances shall not affect the applicability or validity in any other instance, or the validity or application of any other part or provision of the Act.

Said substitute was agreed to.

Mr. Henry Ward moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be not put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

C. W. Anderson, Jr.
George P. Anderson
Henry Arrowood
Robert E. Barry
W. T. Beard
Rell Bevins
Douglas T. Bolling
Sherman E. Carter
C. L. Clayton
T. Fowler Combs
Oris Cooper
M. A. Cornett
John Henry Cox
Rev. W. W. Crouch
Pink G. Curd
Forest C. Easley
Harry W. Ennis
John D. Fields
T. P. Fitzpatrick
W. W. Freeman
Joseph J. Grace
P. Bert Hall
A. G. Hamilton, Jr.
Fuller Harding
Joe Higgins
E. R. Hilton
Clyde S. Howard
Chas. O. Humston
Joe B. Jarboe, Jr.
Crow Jarvis
William L. Jones
John S. Juett
W. A. Lamkin
H. W. Linville
A. L. Love
William Lovett
Harry K. Lowman
Hugh D. Lyon
H. McCartney
Cary McDevitt
Norris McPherson
Dr. Wm. C. Mann
Ed. Marcum
C. C. May
J. Milton Mefford
Sam Milam
D. J. Moore
J. Lee Moore
L. D. Moore
C. E. Montgomery
F. E. Morancy
E. R. Morlidge
C. Sid Nabb
Robert Nicholas
Paul Pelfrey
B. W. Porter
Kleber F. Price
James E. Quill
L. Allen Rhoads
Dr. J. J. Rice
Wade H. Riley
Dr. M. M. Robinson
Dr. K. N. Salyer
Carl Scheben
Leon J. Shaikun
Clyde Smith
Otto Smither
Charles L. Spilman
James D. Stacey
R. C. Stephenson
Thomas M. Swope
C. W. Taylor
Egbert Taylor
Roy L. Taylor
Rev. H. Tinsley
John L. Trumbo
Erna E. Tyra
J. Wood Vance
S. J. Wagner
C. R. Walden
Harry Walters
H. A. Ward
Henry Ward
H. L. Waterfield
Stanley S. Dickson, Speaker
—85

Those who voted in the negative were—

| | | |
|---|---|---|
| Robert E. Beatty | Jerry F. Howell | Byron H. Royster |
| H. M. Brock, Jr. | W. H. Hunt | Faust Y. Simpson |
| Gus A. Brooks | Coy Nevitt | |
| Guthrie F. Crowe | H. C. Patterson | —10 |

Resolved that the title thereof be as amended.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table

Said last named motion was agreed to.

A message was received from the Senate announcing that they had passed bills which originated in that body entitled:

S. B. 44. An Act to enable any county of this Commonwealth, through its fiscal court to purchase, rent or lease voting machines to be used in any or all elections or primary elections: Defining and establishing the requirements of said voting machines, the printing of official sample ballots, number of official ballots to be furnished, requiring instructions of voters in use of machine before election, requiring extra ballots in case of loss or theft, providing for emergency if machine is out of order, the method of conducting the election, the location of the voting machine during elections, the time allowed a voter to vote, instructing voters on election day, providing for blind or physically disabled voters, providing for announcing the vote at the close of election, and locking the machines, and where the irregular ballots are to be returned, providing the disposition of keys, making the possession of keys to a voting machine by an unauthorized person a crime and providing a penalty therefor. Defining the meaning of crime used in this act, and repealing all acts in conflict herewith.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. That from and after passing of this Act it shall be and is hereby declared to be legal to conduct and hold elections in the Commonwealth of Kentucky, or any part thereof, either as is now provided for by law or in the manner hereinafter provided for in this Act.

SECTION II. The Fiscal Court of any County is hereby empowered and authorized to purchase, lease, rent or otherwise procure for use at any election or primary election from available funds or from the proceeds of bonds which may be issued for that purpose, any kind of voting machine or machines meeting the requirements of this Act, and thereupon and thereafter such voting machines may be used in either a part of or in all of the precincts in such County, Municipality, City, Town or other voting district either at any or at all elections and/or primary elections held in such County, Municipality, City, Town or other voting district for voting, registering and counting the votes cast in such elections. The purchase price or rental price of such machines, expenses, storage, equipment, maintenance, repair, as above provided for shall be at the expense of and paid for by such County, to be allowed, approved, and paid in the same manner as other claims are. All other costs of election such as compensation or pay to officers of election, rental of voting places, delivery of boxes, machines, ballots, election paraphernalia and other costs and expenses incident to the preparation for and conduct of elections shall be paid for by the same agencies or divisions of government and in the same manner as costs of elections are now or may hereafter be paid, except as may hereinafter be provided for.

SECTION III. The Fiscal Court of the County, as herein provided for, are hereby expressly authorized and empowered to determine and provide for and require such speci-

fications as are hereinbefore and hereinafter set forth in this Act as deemed proper for voting machines acquired, or to be acquired for use in said elections and primaries, and to select in its or their discretion the type and make of such voting machines, to employ engineers or other skilled persons to advise and aid in the exercise of the powers and duties hereby conferred and required. Provided, however, that none of the specifications or requirements, herein provided for, shall or may at any time be waived except by amendment of this Act by the Legislature of the Commonwealth of Kentucky. All voting machines, when purchased, shall be delivered to the Clerk of the County Court of the County in which they are to be used, who shall have the custody of the same for all the purposes of this Act subject to the rights and duties of the County Board of Election Commissioners in reference thereto as herein provided. The duties of the Clerk of the County Court in reference to delivery of said machines to and from voting places shall be the same as it is to ballot boxes and other election equipment.

SECTION IV. Any voting machines may be adopted, rented, purchased or used which shall be so constructed as to fulfill the following requirements: it shall secure to the voter secrecy in the act of voting; it shall provide facilities for voting for all candidates of as many political parties or organizations as may make nominations, and for or against as many questions as submitted; it shall, except at primary elections, permit the voter to vote for all the candidates of one party or in part for the candidates of one or more other parties, it shall permit the voter to vote for as many persons for an office as he is lawfully entitled to vote for, but no more; it shall prevent the voter from voting for the same persons more than once for the same or any other office; it shall permit the voter to vote for or against any question he may have the right to vote on, but no other; if used in primary elections it shall be so equipped that the election offi-

cials can lock out all rows except those of the voter's party by a single adjustment on the outside of the machine; it shall correctly register or record, and accurately count all votes cast for any and all persons, and for or against any and all questions; it shall be provided with a "Protective Counter" or Protective Device; whereby any operation of the machine before or after the time for opening or closing the election will be detected; it shall be provided with a counter which shall show at all times during an election how many persons have voted; it shall be provided with a mechanical model, illustrating the manner of voting on the machine, suitable for the instruction of voters; it may also be provided with one device for each party, for voting for all the presidential electors of that party by one operation, and a ballot therefor containing only the words "Presidential Electors For" preceded by the name of that party and followed by the names of the candidates thereof for the offices of president and vice-president and a registering device therefor which shall register the vote cast for said electors when thus voted collectively; provided, however, that means shall be furnished whereby the voter can cast a vote in part for the candidates for presidential electors of one party, and in part for those of one or more other parties or in part or in whole for persons not nominated by any party, or to vote for any person for any office when the name of such person so desired to be voted for does not appear upon the ballot as a candidate for any office.

SECTION V. It is hereby declared to be the duty of the County Board of Election Commissioners, hereinafter called the Board, in each of the respective counties, or any body or board which may hereafter be provided to perform the duties now performed by said County Board of Election Commissioners, where said voting machines are used in any election held within the confines of the such County, and said Board is hereby given power and authority to determine

what precincts in the confines of the Municipality, City, Town or other voting precincts within the district shall be first equipped with voting machines, if less than all precincts are to be so equipped at any given time, after the Fiscal Court of said County shall first determined to purchase, rent or lease voting machines for use as herein provided; provided further, however, that when the purchase, lease or rental of any number of machines as herein provided for shall have been made as herein provided for, the said County Board of Election Commissioners shall designate such number of precincts as shall permit the use of all such machines whether purchased, leased or rented.

SECTION VI. All Ballots shall be printed on paper or clear white material of such form and size as will fill the ballot frames of the machines. In plain color type as large as the space will reasonably permit. Party nominations shall be arranged on each voting machine, either in vertical columns or horizontal rows; the caption of the various ballots on said machines shall be so placed on said machines as to indicate to the voter what push knob, key lever or other device is to be used or operated in order to vote for the candidate or candidates of his choice. The order of the arrangement of parties and of candidates shall be as now required by law.

SECTION VII. The officer or officers whose duty it may be under this Act to provide and furnish official ballots for any polling place where a voting machine is to be used, shall also provide not less than two sample ballots or instruction ballots which sample or instruction ballots shall be arranged in the form of a diagram showing such portion of the front of the voting machines as it will appear after the official ballots are arranged thereon or therein for voting on election way. Such sample ballots shall be open to the inspection of all voters on election day, in all primaries and general elections where voting machines are used.

There shall be furnished a sufficient number of sample ballots (a facsimile of the fact of the machines) of a reduced size.

SECTION VIII. It shall be the duty of the County Clerk to have the machine and all necessary furniture and appliances at the proper polling place or places before the time fixed for opening of the polls, and the counters set at zero (000), and otherwise in good and proper order for use at such election, and for the purpose of placing ballots in the ballot frames of the machine, putting it in order, testing, and adjusting and delivering the machine, the authorities in charge of elections may employ one or more competent persons to be known as custodian or custodians of voting machines; who shall be fully competent, thoroughly instructed, and sworn to perform their duties honestly and faithfully, and for such purpose shall be appointed and instructed at least thirty (30) days before the election and shall be considered as officers of elections. Before preparing a voting machine for any election, written notice shall be mailed to the chairman of the committee of at least two of the principal parties, stating the time and place where the machines will be prepared, at which time one representative of each of such political parties shall be afforded an opportunity to see that the machines are in proper condition for use in the election; such representatives shall be sworn to faithtfully perform their duties and shall be regarded as election officials but shall not interfere with the custodians or assume any of their duties. When a machine has been so examined by such representatives it shall be sealed with a numbered seal. Such representatives shall certify to the numbers of the machines, that all of the counters are set at zero (000), and as to the number registered on the protective counter and on the seal. After the preparation of the machines an officer or officers or someone duly authorized, other than the person who has prepared them for election, shall inspect each machine, and

report in writing, concerning the facts as to whether or not all of the registering counters are set at zero (000), as to whether the machine is arranged in all respects in good order for the election and locked; and as to the number registered on the protective counter and on the seal. When a voting machine has been properly prepared for election, it shall be locked against voting and sealed; and the keys thereof shall be delivered to the Board or officials having charge and control of elections together with a written report made by the custodian stating that it is in every way properly prepared for tthe election. After the voting machines shall be transferred to the polling places, it shall be the duty of the local authorities to provide ample protection against molestation or injury to the machine. Every voting machine shall be furnished with a lantern, or a proper substitute for one, which shall give sufficient light to enable voters while voting to read the ballots and suitable for use by the election officers in examining the counters. The lantern or electric light fixture shall be prepared in good order for use before the opening of the polls. All voting machines used in any election shall be provided with a screen, hood or curtain which shall be so made and adjusted as to conceal the voter and his action while voting.

SECTION IX. The form and arrangement of ballots or ballots labels to be used in all voting machines used under authority of this Act shall be arranged and prepared so that the titles of all offices to be voted for shall be arranged either horizontally or vertically, and the names of the candidates of each party or principle shall be arranged under or opposite the proper title, in a horizontal or vertical row or rows for each party or principle; and except that said ballot labels shall be printed in black ink on clear white material of such size and arrangement as to suit the construction of the machine and further that the designation of the party or principle which each candidate represents shall appear just above

the name of each such candidate and provided further that the ballot labels shall be so arranged that exact uniform (so far as practicable) will prevail as to size and face of printing of all candidates' names and party designations. The ballot labels for questions, including Constitutional Amendments, Referenda and other propsitions shall be placed on the machine in the space provided for that purpose and may contain a condensed statement of each proposition to be voted on, accompanied by the words "For" and "Against" or by the words "Yes" and "No". The word "Yes" shall be interpreted as meaning a vote for a constitutional amendment, statute or ordinance referred, or other proposition, and the word "No" as a vote against a constitutional amendment, statute or ordinance referred, or other proposition. The title of the offices on the ballot labels shall be printend in type as large as the space for such office will reasonably premit; there shall be printed below the office title the words "Vote for One", "Vote for Two", in accordance with the provisions of the laws of the Commonwealth concerning and governing elections or such number as the voter is lawfully entitled to vote for out of the whole number of condidates nominated for such office.

At least one voting machine shall be provided for each Eight Hundred (800) registered voters, and the County Courts of the respective Counties are authorized and directed to re-arrange precinct boundaries so as to permit, as far as may be practicable, the use of one voting machine for each Eight Hundred (800) registered voters where said voting machines are used; and provided, further, that each precinct shall be equipped with such number of voting machines, not exceeding one machine for each unit of Eight Hundred (800) voters or fractional part thereof, as the Board may deem necessary for the proper conduct of any election.

In the polling places of precincts where voting machines are required to be used by the provisions of this Act, such elections in such polling places shall be conducted by two judges of election, one Clerk of election and one Sheriff of election the same as provided for in precincts where voting machines are not used. Provided, however, that nothing herein contained shall prevent the use of paper ballots as are now used in elections in places for which voting machines are not available or have not been procured; and in such polling places where paper ballots may be used as aforesaid, elections shall be conducted in all respects in accordance with the provisions of law relating to elections held by means of paper ballots.

In the event the two Judges of election are unable to agree upon any question which it is their duty to act on or decide then and in such cases the Sheriff of election for said precinct shall be called to cast a vote breaking the tie or deadlock, and his vote shall be final.

All voting machines used in a primary election shall remain locked and sealed for the period of fifteen (15) days next succeeding the date of the primary election, after which time the voting machines may be unsealed and unlocked and made available for preparation for use in the succeeding election. Provided, however, that upon receipt of notice of contest as hereafter provided for, the Board shall, within five (5) days from the receipt of such notice, proceed to inspect and examine the voting machines containing the votes cast for such contested office, and shall make a record of the votes cast for such contested office shown on said voting machines, which record they shall duly certify as correct and shall affix their signatures thereto, and they shall preserve such records so that the same may be available in such contest as evidence of the votes cast for such office upon said voting machines. Such record shall be received as evidence as fully and with as full force and effect as if proved by the oral testimony of the

persons who shall sign the same, or by the production of said voting machines in Court or before said Board. The principals of such contest, and their authorized representatives shall be permitted to be present at the aforementioned inspection and examination of said voting machines. After such inspection, examination and recording of the results thereof, the said voting machines shall immediately thereafter be released and shall be available for preparation for use in the succeeding election.

No voter, in the use of voting machines, shall be permitted to occupy more than two minutes while other voters are waiting to use the same.

In the polling places of election precincts where voting macines are used the polls shall be opened at six o'clock A. M. and shall be closed at four o'clock P. M., and, in such polling places officials of election, when acting as such, shall be compensated at the same rate as allowed the officials of elections in all other precincts where elections are conducted and no more.

Wherever possible, the provisions hereof shall be construed in harmony with existing laws. If any of the provisions hereof shall be judicially declared to be invalid or unconstitutional, the remaining provisions hereof shall not be thereby affected, but shall remain in full force and effect.

SECTION X. As used in this ACT:

(1.) The word "ballot-labels" shall mean the cards, paper, or other material, containing the names of offices and candidates and statements of questions to be voted on;

(2.) The word "diagram" shall mean an illustration of the official ballot, when placed upon the machine, showing the names of the parties, offices, and candidates, and statements of the questions, in their proper places, together with the voting devices therefor, and shall be considered a specimen ballot;

(3.) The word "question" shall mean a statment of such constitutional amendment or other proposition as shall be submitted to a popular vote at any election;

(4.) The words "Vote indicator" shall mean the levers, knobs or handles attached to the face of the machine by means of which the voter indicates his choice of candidates or decision of question;

(5.) The words "candidate counters" and "question counters" shall mean the counters on which are registered numerically the votes cast for candidates, and on questions, respectively;

(6.) The words "public counter" shall mean a counter or other device which shall, at all times, publicly indicate how many times the machine has been voted on at an election;

(7.) The words "protective counter" shall mean a counter or protective device or devices that will register each time the machine is operated, and shall be so constructed and so connected that it cannot be reset, altered, or operated, except by operating the machine;

(8.) The words "voting machine booth" shall mean the enclosure occupied by the voter when voting;

(9.) The word "model" shall mean a mechanically operating model of a portion of the face of the machine, illustrating the manner of voting;

(10.) The word "custodian" shall mean the person charged with the duty of testing and preparing the voting machine for the election, and instructing the election officers in the use of the voting machine;

(11.) The words "election" and "elections" whenever used in this Act, shall be held to include and mean all general, municipal, primary and special elections;

(12.) The word "board" shall mean the County Board of Election Commissioners for that County containing the precincts wherein it has been determined to use voting machines as herein provided for;

(13.) The words "County Court" and "County Clerk" shall respectively mean the County Court of that County containing the precincts in which it has been determined to use voting machines as herein provided for, and "County Clerk" shall mean the Clerk of such County Court.

SECTION XI. Every voting machine acquired or used under the provisions of this Act shall:

(a.) Provide facilities for voting for such candidates as may be nominated, and upon such questions as may be submitted;

(b.) Permit each voter, in one operation, to vote for all the candidates of one party for presidential electors;

(c.) Permit each voter, at other than primary elections, to vote a ticket selected from the nominees of any and all parties and from independent nominations; and for any person of the voters choice for any office to be voted for, provided the name of such person of the voters choice is not a candidate for some other office to be voted on at the same election in such case the machine shall provide ways and means for the voter writing in or otherwise indicating the name of the person for whom he desires to vote and then so voting for such person of the voter's choice.

(d.) Permit each voter to vote, at any election, for any person and for any office for whom and for which he is lawfully entitled to vote, and to vote for as many persons for an office as he is entitled to vote for, and to vote for or against any question which appears upon a ballot-label.

(e.) Preclude each voter from voting for more persons for any office than he is entitled to vote for, and from voting for any candidate for the same office or upon any question more than once;

(f.) Be capable of adjustment by election officers, so as to permit each voter at a primary election to vote only for the candidate seeking nomination by the political party with which he is affiilated, and for whose candidates he is

qualified to vote, and so as to preclude him from voting for the candidate seeking nomination by any political party with which he is not affiliated; or for whose candidates he is not qualified to vote;

(g.) Permit each voter to change his vote for any candidate, or upon any question appearing upon the ballot-labels, up to the time he begins the final operation to register his vote, or indicates or expresses his intention to register his vote;

(h.) Permit and require voting in absolute secrecy, and shall be so constructed that no person can see or know for whom any other voter has voted or is voting, save a voter whom he has assisted or is assisting in voting as prescribed by law.

(i.) Have voting devices for separate candidates and questions, which shall be arranged in separate parallel rows or columns, so that, at any primary election, one or more adjacent rows or columns may be assigned to the candidates of a party, and shall have parallel office columns or rows transverse thereto;

(j.) Have a counter, or other device, to be known as a "public counter", the register of which is visible from the outside of the machine, which shall show during any period of voting the total number of voters who have operated the machine during said period of voting;

(k.) Have a protective counter, or other device, the register of which cannot be reset, which shall record the cumulative total number of movements of the operating mechanism;

(l.) Be provided with a lock or locks, by means of which, immediately after the polls are closed, or the operation of the machine for an election is completed, all movement of the registering mechanism is absolutely prevented;

(m.) Be provided with a screen, hood or curtain, which shall conceal the actions of the voter while voting;

(n.) Be constructed of material of good quality, in a neat and workmanlike manner;

(o.) When properly operated, register or record correctly and accurately every vote cast;

(p.) Be so constructed that a voter may readily learn the method of operating it;

(q.) Be safely transportable;

(r.) Be so constructed and controlled that, during the progress of voting, it shall preclude every person from seeing or knowing the number of votes registered for any candidate, and from tampering with any of the registering mechanism.

SECTION XII. (a.) The papers, cards, or strips, enclosed within the ballot-frame or frames of any voting machine, and containing the names of a candidate or candidates, and his, her or their political party, or the statement of a question to be voted upon, hereinafter referred to as ballot-labels, shall be printed in black ink, upon clear white material, of such size as will fit the ballot frame, and in plain clear type so as to be clearly readable by persons with normal vision.

(b.) If the construction of the machine shall require it, the ballot-label for each candidate, group of candidates, or question, to be voted on, shall bear the designating letter or number of the counter on the voting machine which will register or record votes therefor. Each question to be voted on shall appear on the ballot-labels in brief form, to be determined in the same manner as are questions which appear upon paper ballots, but said questions may appear at the top or side of the ballot-label, the provisions of any other section of this Act to the contrary notwithstanding.

(c.) The ballot-label for each candidate or group of candidates, nominated or seeking nomination by a political party, shall contain the name or designation of the political party.

(d.) The titles of offices may be arranged horizontally or vertically, with the names of candidates for the office arranged transversely under or opposite the title of the office.

(e.) The names of all candidates, nominated or seeking nomination by a political party, shall appear in adjacent rows or columns containing generally the names of candidates nominated or seeking nomination by such party.

(f.) When the same person has been nominated for the same office by more than one political party, his name shall appear in the rows or columns containing generally the names of candidates nominated by each such party.

(g.) The form and arrangement of ballot-labels, to be used at any election, shall be determined by the Clerk of the County Court of the County in which the election is being held or the candidates, questions, amendments or issues being voted upon.

(h.) In primary elections, the ballot-labels, containing the names of candidates seeking nomination by a political party, shall be segregated on the face of the machine in adjacent rows or columns by parties.

SECTION XIII. (a.) The BOARD shall cause the proper ballot-labels to be placed on each voting machine which is to be used in any precinct and shall cause each machine to be placed in proper order for voting; and said Board or its duly authorized agent shall examine each machine before it is sent out to a polling place; shall see that each registering counter, except the protective counter, on each machine is set at zero (000); shall lock each machine so that the counting mechanism cannot be operated; and shall seal each machine with a numbered seal. The said Board, or its duly authorized agent, shall adjust each machine, to be used at a primary election, so that the election officers may lock it on primary election day, in such a way that each voter can vote only for the candidates seeking nomination by the political party with which he is affiliated, if he is affiliated with a political party,

or for whose candidates he is qualified to vote, and so that no voter can vote for the candidates seeking nomination by any political party with which he is not affiliated, or not entitled to vote.

(b.) The said County Clerk shall appoint one (1) custodian of voting machines and additional Deputy Custodians whose duty it shall be, in conjunction with the Clerk of the County Court of said County, to prepare the machines to be used in the County at the election to be held therein. Such custodian shall, under the direction of the said Clerk, have charge of and represent the Clerk during the preparation of the voting machines as required by this Act, and he and the Deputy Custodians, whose duty it shall be to assist him in the discharge of his duties, shall serve at the pleasure of the said Clerk. Each custodian shall take the constitutional oath of office which shall be filed with the said Clerk.

(c.) On or before the 30th day preceding an election the said Clerk shall mail to the Chairmen of the Committees of each political party, which shall be entitled under existing laws to participate in primary elections within the county or the City, as the case may be, a written notice, stating the times when and the place or places where the machines for use in the several election precincts in the County will be prepared for use. At such times and places, one (1) representative each of such political parties, certified by the respective Chairmen of the District, County or City Committee of such parties as the case may be, shall be entitled to be present, and to see that the machines are properly prepared and are placed in proper condition and order for use.

(d.) The Clerk of the County Court in person or by one of his deputies and the custodian and deputy custodians of voting machines shall make a certificate, in writing, which each shall sign, and request each representative of a party as aforesaid present at the preparation of the machine to attest, and which shall be filed with the said Board, stating the identifying number of other designation of the voting

machine; that each registering counter of the machine was set at zero (000); the number registered on the protective counter or other device of the machine; and the number on the seal with which the machine is sealed.

(e.) No Board, or member or employee thereof, nor custodian, nor other officer or person or persons, shall, in any way, prevent free access to an examination of all voting machines, which are to be used at the election, by any of the duly appointed representatives aforesaid; and the said County Clerk and his Deputies, the Board and its employees shall afford to each such representative every facility for the examination of all registering counters, protective counters, and public counters of each and every voting machine.

(f.) The Clerk of the County Court of the County wherein voting machines are used shall furnish all ballot-labels, forms of certificates, returns and other papers and supplies, required under the provisions of this Act, to be paid for as ballots, ballot books and other election paraphernalia are paid for in precincts where elections are held and conducted without the use of voting machines. Provided that in Counties containing political subdivisions that have separate or special Primaries and Elections, such subdivision shall have the use of the voting machines in such separate or special Primaries and Elections and shall pay all expenses incidental to their use in such separate or special Primaries and Elections.

SECTION XIV. (a.) The Clerk of the County Court shall deliver the proper voting machine or voting machines, properly furnished with ballot-labels, to the polling places of the respective election precincts at least one (1) hour before the time set for opening the polls at each election, and shall cause each machine to be set up in the proper manner for use in voting. Each machine shall then remain sealed until the examination immediately preceding the opening of the polls prescribed by this Act.

(b.) The Board shall provide ample protection against molestation of and injury to the voting machine, and, for that purpose, the said Board or any of the Judges of Election shall and may call upon any Police Officer or other peace officer to furnish such assistance as may be necessary and possible, and it shall be the duty of Police Officers and other peace officers to furnish such assistance when so requested by the said Board or by any Judge of Election.

(c.) The Clerk of the County Court shall furnish at the expense of the County, Municipality, City, Town or voting district in which voting machines are to be used and deliver with each machine:

(1.) A lantern, or a proper substitute for one, which shall give sufficient light to enable voters, while in the voting machine booth, to read the ballot-labels, and suitable for the use of the Judges of Election in examining the counters. The lantern, or proper substitute therefor, shall be prepared and in good order for use before the opening of the polls.

(2.) Two diagrams or sample ballots, of suitable size, representing such part of the face of such voting machine as will be in use in the election, and accompanied by illustrated directions for voting on the machine. Such diagrams shall be posted prominently outside the enclosed space within the polling-place.

(3.) A mechanically operated model of a portion of the face of a voting machine, for the instruction of voters. Such model shall be placed in the polling-place and at or outside of the guard-rail.

(4.) A seal, for sealing the machine after the polls are closed, unless the construction of the machine is such that the machine is automatically locked and sealed when the results are exposed; and envelope for the return of the keys, if the construction of the voting machine shall permit their separate return; and such other election materials and supplies as may be necessary, or as may be required by law.

SECTION XV. Before each election at which voting machines are to be used the Board or the employees thereof or the custodian shall instruct in the use of the machine, and in their duties in connection therewith, all Judges of Election who are to serve thereat and who have not previously been instructed and found qualified; and they shall give to each Judge of Election, who has received such instruction and is fully qualified to conduct the election with the machine, a certificate to that effect. For the purpose of giving such instruction, the said Board or the custodians shall call such meeting or meetings of the Judges of Election as shall be necessary. Each Judge of Election shall, upon notice, attend any such meeting or meetings called for his instructions as shall be necessary for the proper conduct of the elections with the machine. No Judge of Election shall serve in any election at which a voting machine is used, unless he shall have received such instruction and is fully qualified to perform his duties in connection with the machine, and has received a certificate to that effect from the Board or one of the custodians of the machines; provided, however, that this shall not prevent the appointment of a Judge of Election to fill a vacancy arising on the day of election, or within three (3) days preceding the day of election.

SECTION XVI. (a.) The Board shall deliver the keys, which unlock the operating mechanism and the registering counters or counter compartment of the voting machine, to one of the Judges of Election not earlier than noon of the third day preceding an election, nor later than three-quarters of an hour before the time set for the opening of the polls, and shall take the Judge's receipt therefor. The keys shall be enclosed in a sealed envelope, on which shall be written or printed: the number of the voting machine; the name or designation of the precinct; the number of the seal; and the number registered on the protective counter or device as reported by the custodian.

(b.) No Judge of Election shall open an envelope so delivered, until another Judge of the opposite political party shall be present in the polling-place, and shall have examined the envelope to see that it has not been opened.

(c.) Before opening the envelope, both Judges of Election shall examine the number on the seal on the machine, and the number registered on the protective counter or device, and shall see whether they are the same as the numbers written on the envelope containing the keys. If either number shall be found not to agree, the envelope shall remain unopened, until the Judges of Election shall have notified the custodian of voting machines, or the Board shall have presented himself at the polling-place for the purpose of re-examining the machine, and shall have certified that it is properly arranged.

(d.) But if the numbers on the seal and the protective counter or device shall be found to agree with the numbers on the envelope, the Judges of Election shall examine the registering counters, and, for that purpose, shall open the doors concealing such counters, if the construction of the voting machine shall so require, and, before the polls are opened, the said Judges shall carefully examine every registering counter, and shall see that it registers zero (000) with the exception of the protective counter or device, and shall allow the watchers to examine the counters.

(e.) If the ballot-labels containing the names of officers, parties, candidates, and questions, shall not be in their proper places on the voting machine, the Judges of Election, forthwith, shall notify the custodian of voting machines, or the Clerk of the County Court or the Board, and the machine shall not be used until the custodian, or some other person authorized by the said Clerk of the County Court or the Board, shall have supplied ballot-labels as herein prescribed. If the ballot-labels for a voting machine shall not be delivered at the time required, or, if, after delivery, they shall be lost, destroyed, or stolen the Clerk of the County Court or the

Board or Custodian shall cause other ballot-labels to be furnished, prepared, printed or written, as nearly in the form of the official ballot-labels as practicable, and shall cause such ballot-labels to be used in the same manner, as nearly as may be, as the official ballot-labels would have been used.

(f.) The Judges of Election shall sign a certificate showing: (1.) the identifying number or other designation of the voting machine; (2.) the delivery of the keys in a sealed envelope; (3.) the number on the seal upon the machine; (4.) the number registered on the protective counter or device; (5.) that all of the counters were set at zero (000); (6.) that the ballot-labels are properly placed in the machine; and (7.) that every vote indicator in connection with or belonging to a blank space immediately adjacent (either horizontally or vertically) to the space containing the name of any candidate or the word "Yes" or "No", "For" or "Against", in connection with any question, is locked against operation, which certificate shall be returned by the Judges of Election to the Board with the other certificates as hereinafter provided.

g.) The machines shall remain locked against voting until the polls are opened, and shall not be operated except by voters in voting. If any counter except the protective counter or device, is found not to register zero (000) the Judges of Election shall immediately notify the custodian or the Board, who shall, if practicable adjust or cause the counters to be adjusted at zero (000); but, if it shall be found impracticable for the custodian or other person authorized by the said Board to arrive in time so to adjust counters before the time set for opening the polls, the Judges shall immediately make a written record of the designation or designating letter or number of each counter, together with the number registered thereon, hereinbelow called the "initial number", and, shall sign and post the same upon the wall of the polling-place, where it shall remain until the polls are closed; and, in filling out the returns of the election, if the final number of such

counter is greater than the initial number, the election officers shall subtract the initial number from the final number and enter the difference on the returns as the vote for the candidate or on the question requested by such counter; if the final number of such counter is less than the initial number, the Judges of Election shall add one thousand to the final number and shall subtract the initial number from the sum so ascertained, and shall enter upon the returns as the vote for the candidate or on the question represented by such counter the final number plus one thousand less the initial number.

(h.) The exterior of the voting machine, and every part of the polling place, shall be in plain view of the Judges of Election and Watchers. Every voting machine shall be located in the polling-place at least six (6) feet back of the guard-rail, in such a position that, unless its construction shall require otherwise, the ballot-labels on the face of the machine can be seen plainly by the Judges of Election and Watchers when the machine is not occupied by a voter. The Judges of Election shall not themselves be, nor allow any other person to be, in any position that will permit one to see or ascertain how a voter votes, or how he has voted. The said Judges, or one of them, shall inspect the face of the machine at frequent intervals, to see that the ballot-labels are in their proper places, and that the machine has not been injured or tampered with.

(i.) During an election, the door, or other covering of the compartment containing the counters of the machine, shall not be unlocked or opened, or the counters exposed, except by the action of the proper Custodian of voting machines for good and sufficient reason, a statement of which shall be made in writing, and signed by him and attested by the signatures of the Judges of Election, or except upon the written order of the Board for good and sufficient reason which shall be stated in the order.

SECTION XVII. (A.) During the thirty (30) days next preceding an election, the Board shall place on public exhibition, in such public place, on such days, and at such times as they may deem most suitable for the information and instruction of the voters, one or more voting machines, containing the ballot-labels, and showing the offices and questions to be voted upon, the names and arrangements of parties, and, as far as practicable, the names and arrangement of the candidates to be voted for. Such machine or machines shall be under the charge and care of a person competent as Custodian and Instructor. No voting machine, which is to be assigned for use in an election, shall be used for such public exhibition and instruction, after having been prepared and sealed for the election.

(b.) During such public exhibition and instruction the counting mechanism of the voting machine shall be concealed from view, and the doors, or cover concealing the same, shall be opened, if at all, only temporarily, and only upon written authorization from the Board.

(c.) Prior to any election the Board may cause copies of any diagram or diagrams, required to be furnished with voting machines at polling-places, to be made, either in full size or in reduced size, and to be posted, published, advertised or distributed among the voters in such manner as the said Board may deem desirable.

SECTION XVIII. (a.) The Judges of Election shall, with the aid of the diagrams herein authorized, and the mechanically operated model, instruct each voter before he enters the voting machine booth, regarding the operating of the machine, and shall give the voter opportunity personally to operate the model.

(b.) No voter shall be permitted to receive any assistance in voting at any election, unless he shall declare under oath to the Judges of Election that by reason of blindness illiteracy or physical disability he is unable to read the names

upon the ballot-labels or to see the machine, or, without assistance, to prepare it for voting, or enter the voting machine booth without assistance. Upon making and filing with the Judges such affidavit, the voter shall retire to a voting machine, with two of the Judges of opposite political parties, and then and there one of said Judges in the presence of the other shall operate the machine as such voter shall direct, the voter himself orally naming one by one the candidates for whom he desires his vote to be recorded or by indicating the candidates by a general designation as the candidates of any one political party. Such disabled voter desiring to vote for or against any proposed amendment, or on any submitted question, must, without suggestion of any kind made by either of the Judges, state orally the amendment or question upon which he desires to vote and whether he desires to vote "Yes" or "No" or "For" or "Against" such amendment or question. The ballot-label shall not be read to such voter, nor shall any suggestion of any kind be made by either of said Judges to show him as to how his choice shall be indicated, but the only assistance which it shall be lawful for the Judges to give him is to move the vote indicators as he, without prompting or suggestion from them or either of them, shall direct, but no voter shall be assisted under this Section until the two (2) Judges of Election and the Sheriffs of Election shall be satisfied of the truth of the fact stated in such affidavit. Voters who are not unable, by reason of blindness or physical disability, to operate the machine without assistance shall not be entitled to receive assistance in so doing. And with the exception in favor of persons blind or incapable by reason of physical disability of operating a voting machine without assistance, no distinction or discrimination in the matter of assistance in operating such machine shall be made for or against any duly registered voter for any other cause whatever. The voter shall state in his affidavit the specific physical disability which requires him to receive assistance, and the Judges of

Election shall enter in writing on the record of assisted voters: (1) the voter's name; and (2) the specific physical disability which required him to receive assistance.

(c.) If, however, any voter, after entering the voting machine booth, and before the closing of such booth, shall ask for further instructions concerning the matter of voting, then two (2) of the Judges of opposite political parties shall give him such instructions, but no such Judge shall, in any manner, request, suggest, or seek to persuade or induce any such voter to vote any particular ticket, or for any particular candidate, or for or against any particular question. After giving such instructions, and before the voter closes the booth or votes, the Judges shall retire, and the voter shall forthwith vote.

SECTION XIX. In primary elections, before a voter is admitted to the voting machine, it shall be adjusted by a Judge of Election in charge thereof so that such voter will only be able to vote for the candidates of the party with which he is affiliated.

SECTION XX. At any general election, at which presidential electors are to be chosen, the machine shall be so adjusted that each voter shall be enabled to vote, by one operation, for all the presidential electors of a party. For each party nominating presidential electors, a ballot-label shall be provided, containing only the words "Presidential Electors", preceded by the name of the party, and followed by the names of the candidates thereof for the offices of President and Vice-President, and the corresponding counters of registering devices shall register votes cast for said electors when thus voted for collectively, but the machine shall be so prepared that it shall be possible for the voter to indicate his choice of as many candidates for the position of presidential elector as there are presidential electors to be elected.

SECTION XX½. Before permitting any person to vote on the day of the election, in a precinct where a voting machine is used, the election officers shall examine the machine to ascertain whether it has been operated since the counters were set at zero, and to ascertain whether the ballot labels are arranged as specified on the printed instruction cards. If the machine indicates that it has been operated or if the ballot labels are not so arranged, the officers shall not unlock the operating device or mechanism, but shall immediately secure the attendance of one or more of the members of the county board of election commissioners, who shall reset said counters at zero and then relock the device covering the counters, or properly arrange the ballot labels, as the case may be, in the presence of the election officers. If the attendance of such members of the board of election commissioners cannot be obtained before the opening of the polls or within one hour thereafter, the election officers shall notify the county clerk of the foregoing facts and obtain from the county clerk a reserve voting machine, and thereafter proceed to conduct the election. Any reserve machine so used, shall be prepared for use at the election by the county board of election commissioners and the election officers in such precinct in the same manner as the original machine was prepared for the election by the county clerk. The machine found to have been so operated shall be returned immediately to the custody of the county clerk whose duty it shall be to promptly repair same in order that it may be used as a reserve machine in the election if needed.

If any machine during the voting in any precinct is damaged so that it will not properly register the votes, then it shall be the duty of the election officers to immediately notify the Election Commission, and said Commission shall deliver to that precinct a reserve machine prepared and examined in the same manner as the regular machines. The number of votes cast on the disabled machine shall be determined in the same manner as at the close of the voting. The officers shall

also certify the votes in the same manner. The combined votes on the disabled machine and the reserve machine at the end of the voting shall be certified as the total vote of the precinct as provided by this act. For the purpose of complying with this section, the Fiscal Court shall buy, rent, or lease a sufficient number of reserve machines to meet such emergencies.

SECTION XXI. (a.) When the polls are closed, all qualified voters, who are then waiting in line to vote, shall be permitted by the Judges to do so. As soon as the polls are closed, and the last voter has voted, the Judges shall immediately lock and seal the operating lever or mechanism of the machine so that the voting and counting mechanism will be prevented from operation, and they shall then sign a certificate stating: (1.) that the machine has been locked against voting and sealed; (2) the number of voters, as shown on the public counters; (3.) the number on the seal which they have placed upon the machine; (4.) the number registered on the protective counter or device; and (5) the number or other designation of the voting machine, which certificate shall be returned by the Judges of Election to the officials authorized by law to receive the same. The Judges shall then compare the number of voters, as shown by the counter of the machine, with the number of those who have voted as shown by the protective counter or device.

(b.) The Judges, in the presence of the Watchers and all other persons who may be lawfully within the polling-place shall then make visible the registering counters, and, for that purpose, shall unlock and open the doors, or other covering concealing the same, giving full view of all the counter numbers. The Judges shall, under the scrutiny of the Watchers, and in the order of the offices as their titles are arranged on the machine, read and announce, in distinct tones the designation or designating numbers and letters on each counter, and the results as shown by the counter numbers for and against each question voted on. The counters shall not be read consecutively along the party rows or columns, but shall

always be read along the office columns or rows, completing the canvass for each office or question before proceeding to the next. The vote as registered shall be entered by the Judges, in ink, on triplicate return sheets, and also on a general return sheet and statement, all of which, after the canvass is completed, shall be signed by the Judges. The vote for presidential electors shall be computed and returned as provided herein. If more than one (1) voting machine is used in any precinct, the vote registered on each machine shall be ascertained in like manner, and separately enterd in appropriate spaces on the general and triplicate return sheets and statement. The total vote cast for each candidate, and for and against each question, shall then be computed and entered on the general and triplicate return sheets and statement. There shall also be entered on the general return sheet and statement the number of voters who have voted, as shown by the lists of voters, and the number who have voted on each machine, as shown by the public counters, and also the number registered on the protective counter or device on each machine immediately prior to the opening of the polls and immediately after the closing thereof and sealing of the machine. The number or other designation of each machine used shall also be entered thereon. In the case of primary elections, triplicate return sheets shall be prepared for each party. The registering counters of the voting machines shall remain exposed to view until the said returns and all other reports have been fully completed. During such time, any candidate, or duly accredited Watcher, who may desire to be present, shall be admitted to the polling place.

(c.) The proclamation of the result of the votes cast shall be announced distinctly and audibly by one of the Judges of Election, who shall read the name of each candidate, the designation or designating numbers and letters of his counters and the vote registered on each counter, also, the vote cast for and against each question submitted. During such proclamation ample opportunity shall be given to any person law-

fully present to compare the results so announced with the counter dials of the machine, and any necessary corrections shall then and there be made by the Judges, after which the doors or other cover of the voting machine shall be closed and locked and the return sheet shall be signed by each of the Judges of Election. If any Judge shall decline to sign such return, he shall state his reason therefor in writing, and a copy thereof, signed by himself, shall be enclosed with such return. Each of the return sheets shall be enclosed in an envelope, which shall then be secretly sealed with sealing wax, or other sealing material, and each of the Judges shall write his name across the fold of the envelope. One of the triplicate return sheets shall be directed to the County Board of Election Commissioners of the County in which election is being held, one to the local governing body of each of the two (2) dominant political parties, and the general return sheet and statement shall be directed and immediately delivered to the Clerk of the County Court of the County in which said precinct is located, together with the keys of the voting machine, inclosed in a sealed envelope, if the construction of the voting machine shall permit their separate return. Said envelope shall have indorsed thereon a certificate of the Election Officers, stating the number of the machine, the precinct where it has been used, the number on the seal, and the number on the protective counter or device at the close of the polls.

(d.) As soon as possible after the completion of the count, the Clerk of the County Court for the County in which said precinct is located shall have the voting machine properly boxed or securely covered and removed to a proper and secure place of storage.

SECTION XXII. The general return sheet, triplicate return sheets, and statement, shall be printed to conform with the type of voting machine used. The designating number and letter, if any, on the counter for each candidate shall be printed thereon opposite the candidate's name. Immediately

after the vote has been ascertained, the statement thereof shall be posted on the door of the polling-place. Thereupon, each of the Judges shall take into his possession two (2) of the above mentioned return sheets, sealed up in its envelope as aforesaid, and the meeting of said Judges shall then be dissolved. Thereupon the said Judges shall forthwith deliver the said return sheets to the respective officers and persons to whom they are addressed, as aforesaid, and shall take receipts therefor. The Judges representing each of the two (2) dominant political parties shall take the envelope addressed to the local governing authority of the party with which said respective Judges are affiliated, also, one (1) of the Judges shall take and deliver the envelope addressed to the Board and the other Judge shall take and deliver the envelope addressed to the County Clerk.

SECTION XXIII. After each general or special election, the voting machine shall remain locked against voting for the thirty (30) days next following such election, except that it may be opened and all the data and figures therein examined, upon the ORDER of any Court of competent jurisdiction, or Judge thereof, or by direction of any legislative committee authorized and empowered to investigate and report upon contested elections affected by the use of such machine, and such data and such figures shall be examined by such Court, Judge or committee in the presence of the officer having the custody of such machine. In the event of a contest of election the Court in which such contest is pending or the committee before which said contest is being heard may upon motion of any party to said contest issue an order requiring that said voting machines shall remain continuously locked for such further time as may be reasonable or necessary, with due regard for the preparation of said machines for a succeeding primary, general or special election, but in no event shall such order compel that said machines remain locked to a time within thirty (30) days next preceding any such approaching primary, general or special election.

SECTION XXIV. Whenever it shall appear that there is a discrepancy in the returns of any precinct, or, upon petition of three (3) voters of any precinct, verified by affidavit, that an error, although not apparent on the face of the returns, has been committed therein, the Board shall, at any time prior to the completion of the computation of all of the returns for the said election, summon the officers of election of the precinct, and said officers, in the presence of said Board, shall make a record of the number of the seal upon the voting machine, and, without unlocking the machine against voting, shall recanvass the vote cast thereon. Before causing such recanvass, the said Board shall give notice in writing to the Custodian of voting machines, and to each candidate, and to the Chairman of the City Committee of each party affected by the canvass, and each such candidate may be present in person, or by Attorney, and each of such parties may send two (2) representatives to be present at such recanvass. If, upon such recanvass, it shall be found that the original canvass of the returns has been correctly made from the machine, and that the discrepancy still remains unaccounted for, the said Board, with the assistance of the Custodian, in the presence of the Judges of Election and the authorized candidates and representatives, shall unlock the voting and counting mechanism of the machine, and shall proceed thoroughly to examine and test the machine to determine and reveal the true cause or causes, if any, of the discrepancy in returns from such machine. Each counter shall be reset at zero (000) before it is tested, after it shall be operated at least one hundred times. After the completion of such examination and test, the Custodian shall then and there prepare a statement, in writing, giving in detail the result of the examination and test, and such statement shall be witnessed by the persons present, and shall be filed with the said Board. If, upon such recanvass, it shall appear that the original canvass of the returns by the election officers was incorrect, the said returns and all papers being prepared

by the said Board shall be corrected accordingly; provided, however, that there shall be no change in the vote of any candidate from that originally certified unless such candidate was actually notified or notice to someone previously designated by such candidate as the person upon whom notice could be served.

SECTION XXV. (a) The Clerk of the County Court shall have the custody of all voting machines, and the keys therefor, when the machines are not in use at an election, and shall provide for the safe storage and care of the machines and keys.

(b.) All voting machines, when not in use, shall be properly boxed or covered, and stored in a suitable place or places as provided by this Section.

SECTION XXVI. Any officer of election, or other person, who shall violate any of the provisions of this Act, or who shall tamper with, or injure, or attempt to injure, any voting machine to be used or being used in an election, or who shall prevent, or attempt to prevent the correct operation of such machine, or any unauthorized person who shall make or have in his possession a key to a voting machine to be used or being used in an election, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to undergo imprisonment for not more than one (1) year, or to pay a fine not exceeding ONE THOUSAND ($1,000.00) DOLLARS, or both, in the discretion of the Court.

SECTION XXVII. Except as modified by the provisions of this Act, the general laws regulating general, municipal, primary, special, and other elections shall apply to all elections in accordance with the provisions of this Act.

SECTION XXVIII. If any of the Provisions of this Act shall be judicially declared to be invalid or unconstitutional, the remaining provisions thereof shall not be thereby affected, but shall remain in full force and effect.

SECTION XXIX. AND BE IT FURTHER ENACTED, that all laws or portions of laws inconsistent with or in conflict with the provisions hereof are hereby repealed to the extent of such inconsistency herewith, but not otherwise.

S. B. 56. An Act relating to chattel mortgages.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 2 of Chapter 34 of the Acts of 1940 is amended to read as follows:

A recorded chattel mortgage shall be invalid as against creditors, purchasers, junior mortgagees, other lienors and encumbrancers and third parties after the expiration of a period of seven years from the time the chattel mortgage is filed as provided in § 523b-8, or from the time of filing of a statement as provided in this section, unless before the expiration of such term the mortgagee, or someone in his behalf, files a statement, in the office of the county clerk of the county in which the property is then located, containing the names of the parties to the mortgage, the time and place where the original is filed, and the amount then due thereon for principal and interest, in which case the lien of the mortgage shall be extended for seven years from the date of filing the statement. The county clerk may charge a fee of one dollar for filing such statement and shall enter it in his "Chattel Mortgage Minute Book" as in case of a chattel mortgage.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 382.720, and shall thereafter be treated as an amendment to KRS 382.720 rather than an amendment to 1940, c. 34, § 2, and the num-

ber "KRS 382.670" shall be substituted for "§ 523b-8" in section one of this Act.

S. B. 79. An Act authorizing taxing agencies or instrumentalities to comply with the provisions of Chapter IX of the Federal Bankruptcy Act.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1.

Any taxing agency or instrumentality as defined in Chapter IX of the Federal Bankruptcy Act as amended by the Acts of Congress of August 16, 1937, Chapter 657, June 22, 1938, Chapter 575, March 4, 1940, Chapter 41, June 28, 1940, Chapter 438 and acts amendatory and supplementary thereto or acts extending the date of expiration thereof, as the same may be amended or extended from time to time, is hereby authorized to file a petition for the composition of its debts and to do all things necessary to comply with the provisions of the Federal Bankruptcy Act: Provided, however, that no county is authorized to file a petition as provided in the Federal Bankruptcy Act unless the proposed plan is first approved by the State Local Finance Officer and provided, further, that no changes or modifications shall be made in the plan of composition after the filing of the petition without the approval of the State Local Finance Officer. The State Local Finance Officer shall approve or disapprove the proposed plan of composition or any changes or modifications thereof under the same procedure and for the same reasons as bonds are approved or disapproved by him as is provided in the County Debt Act of 1938 and amendments thereto.

Section 2.

If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, the numbers "KRS 66.280 to 66.390" shall be substituted for the words and fig-

ures "the County Debt Act of 1938 and amendments thereto" in section one of this Act.

S. B. 80. An Act to amend Sec. 3720b-3 of Carroll's Kentucky Statutes, 1936 Edition.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 3720b-3 of Carroll's Kentucky Statutes, 1936 Edition, is amended to read as follows:

"An unqualified order or promise to pay is unconditional within the meaning of this Act, though coupled with:

(1) An indication of a particular fund out of which reimbursement is to be made, or a particular account to be debited with the amount; or

(2) A statement of the transaction which gives rise to the instrument.

An order or promise to pay out of a particular fund is not unconditional, except that in all cases where any county, city or taxing district of this Commonwealth, or where any instrumentality or agency of the Commonwealth, or of any political subdivision or taxing unit thereof, has issued or may hereafter issue pursuant to proper authority duly granted, securities which, by such authority, or by the resolution or ordinance providing for the same, are limited, as to the payment of the principal and interest thereof, to the proceeds of the collection of special assessments, tolls, rents, special taxes, earnings, or other limited sources of revenue, or where such principal and interest are, by such authority, resolution or ordinance, made payable only from some special fund established for that purpose, or where such issuer is limited by law in the amount or rate of taxation which may be levied or imposed for the purpose of paying such principal and interest, then, notwithstanding that the promise to pay contained in any such securities shall be deemed to be

conditional within the meaning of this section, such securities, unless they contain explicit recitals to the contrary, shall nevertheless pass as negotiable instruments, and shall possess all the attributes thereof, as are possessed by securities which any such issuer could or might be authorized to issue on its full faith and credit, secured as to payment of principal and interest by unlimited taxing power.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 356.003, and shall thereafter be treated as an amendment to KRS 356.003 rather than an amendment to § 3720b-3 of Carroll's Statutes.

S. B. 109. An Act to authorize the Commissioner of Welfare to parole at any time at his discretion prisoners serving sentences of ten years or less, or sentences aggregating ten years or less, until the President of the United States shall declare that a National Emergency no longer exists.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. Until the date upon which the President of the United States shall declare that a National Emergency no longer exists, the Commissioner of Welfare may, at his discretion, and with the approval of the Governor, and subject to the statutes regulating the manner of granting paroles, parole at any time any prisoner confined in one of the penal institutions of this State serving a sentence of ten years or less, or sentences aggregating ten years or less.

SECTION 2. The first sentence of Section 3828-2 of Carroll's Kentucky Statutes, 1936 edition, or, if the Kentucky Revised Statutes are enacted, subsection (1) of KRS 439.110, shall be suspended during the continuance of the National Emergency, but on and after the date upon which the Presi-

dent of the United States shall declare that a National Emergency no longer exists, said section, unless sooner amended or repealed, shall return to full force and effect.

SECTION 3. Whereas this nation is now engaged in a war which requires the services of all available manpower at the earliest possible date, both in the armed forces and in civil life, if victory is to be attained, an emergency being declared to exist, and this Act shall take effect upon its passage and approval by the Governor.

S. B. 111. An Act to amend Section One of Chapter 92 of the Acts of 1940, relating to salary of public officers and employees and to any person to whom the Commonwealth of Kentucky or any agency thereof is indebted, and declaring an emergency.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION ONE: Section One of Chapter 92 of the Acts of 1940 is amended to read as follows:

(1) Salaries or sums due state, county, city, and school board officers and employees shall be subject to attachment or garnishment.

(2) All sums due any person from the Commonwealth of Kentucky, or any agency or department thereof, and all sums due from any county school board, city or county, shall be subject to attachment or garnishment.

SECTION TWO: If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 427.130 and shall thereafter be treated as an amendment to KRS 427.130 rather than an amendment to 1940, c.92, Section 1.

SECTION THREE: WHEREAS, there are many out-of-state dealers and contractors doing business within the Commonwealth of Kentucky which have a great number of employees in this State, and

WHEREAS, said employers have no property subject to execution in this State and the employees and other persons to whom said dealers and contractors are indebted have no means of collecting debts due them and other citizens of this Commonwealth except by attachment and garnishment, an emergency is declared to exist and this act shall become effective immediately upon passage and approval by the Governor of the Commonwealth of Kentucky.

S. B. 121. An Act to amend and reenact Section 2542 of Carroll's Kentucky Statutes, 1936 edition, relating to limitation of actions.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That Section 2542 of Carroll's Kentucky Statutes, 1936 edition, relating to limitation of actions, is hereby amended and reenacted and, as amended and reenacted, said section shall read as follows:

When a cause of action has arisen in another state or country, and by the laws of the state or country where the cause of action accrued the time for the commencement of an action thereon is limited to a shorter period of time than the period of limitation prescribed by the laws of this state for a like cause of action, then said action shall be barred in this state at the expiration of said shorter period.

Section 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 413.320, and thereafter be treated as an amendment to KRS 413.320 rather than an amendment to Section 2542 of Carroll's Statutes.

S. B. 132. An Act to amend and reenact Section No. 2739-31 of Carroll's Kentucky Statutes, 1936 Edition, or Section 352.250, Kentucky Revised Statutes.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Section 2739-31 of Carroll's Kentucky Statutes, 1936 Edition, be repealed and reenacted so that when repealed and reenacted it will read as follows:

"2739-31. EXPLOSIVES, MAGAZINES, WHERE TO BE LOCATED. All distributing explosive magazines used for quantities of explosives estimated as a daily supply shall be located not less than one hundred feet from any mine opening or building used or occupied by any person or persons; and the outside construction of such magazine shall be of non-combustible material.

"All magazines used for storing powder or other explosives in greater quantities than an estimated daily supply shall be located not less than five hundred feet from any mine opening or building used or occupied by any person or persons; and the outside construction of such magazines shall be of non-combustible material, provided, however, this shall not apply to distributing or storage magazines already constructed prior to the passage of this act.

"Where Cardox or other permissible breaking devices of a similar nature are manufactured at or near the mine, the chief of the Department of Mines and Minerals shall have the authority to prescribe the location and procedure of such installation."

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 352.250, and shall thereafter be treated as an amendment to KRS 352.250 rather than an amendment to § 2739-31.

Ordered that said bills be printed and referred to the Committee on Rules.

And that they had passed a concurrent resolution as follows, viz.:

S. Res. 42. Whereas, one hundred and fifty-one years ago President George Washington approved an Act of Congress authorizing the admission into the Union of the State of Kentucky, effective on the first of June, 1792, and

Whereas, the sons and daughters of this Commonwealth that was carved out of "the Wilderness" ever have been an important and often a deciding factor in the struggles of the United States to maintain its independence and nurture its democratic institutions, and,

Whereas, there has been no more appropriate time in the entire history of the Nation for emphasizing to all America the pioneer sacrifices made and the signal courage exhibited by Kentuckians to help establish, promote and protect the independence and democracy of the United States, and

Whereas, this year, in which the United States is engaged on a world-wide scale in a war to preserve its cherished institutions against the arms of dictatorial powers seeking to destroy her independence, marks the sesquicentennial of Kentucky's admission to Statehood, and

Whereas, the General Assembly of Kentucky has appointed a commission to fittingly celebrate and commemorate the State's 150th birthday and memorialize the valiant deeds of her heroes and heroines of pioneer days, which are an inspiration today to patriotic service and devotion, and

Whereas, the Government of the United States thus far has given no formal recognition of this momentous and colorful event in Kentucky's glorious history, therefore

Be It Resolved by the Senate of the Commonwealth of Kentucky, the House of Representatives, concurring:

That Congress of the United States be memorialized to pass an Act directing that an issue of Half-Dollars, especially

commemorative of the Sesquicentennial of Kentucky Statehood, be struck by the United States Mint this year and the President of the United States be respectfully urged to approve the said Act.

Ordered that said resolution be laid on the Clerk's desk.

And that they had passed bills which originated in this House entitled:

H. B. 203. An Act relating to Unemployment Compensation.

H. B. 204. An Act relating to Unemployment Compensation.

H. B. 27. An Act relating to State Warrants.

With an amendment thereto by way of Substitute therefor as proposed and adopted by the Senate.

Ordered that House Bills Nos. 203 and 204 be delivered to the Enrolling Clerk of this House.

Ordered that House Bill 27 be laid on the Clerk's Desk.

Mr. Henry Ward moved that the House do now recess until two o'clock P. M.

Said motion was agreed to.

And then the House recessed.

The hour of two o'clock P. M. having arrived, the Speaker resumed the Chair and called the House to order.

Mr. J. Lee Moore moved that when the House adjourn today, it adjourn out of respect to The Honorable Reed Wilson and The Honorable Floyd Ball, members of this House who have each suffered the loss of a member of their immediate family.

Said motion was agreed to.

Mr. Lamkin moved that Master Stanley Dickson, Junior be appointed an Honorary Page of this House.

Said motion was agreed to.

Mr. Henry Ward of the Committee on Rules to which the same had been referred, reported bills of the following titles, viz.:

H. B. 81. An Act relating to the city manager form of government for cities.

H. B. 112. An Act to amend Chapter 28 of the 1938 Acts of the General Assembly.

H. B. 220. An Act amending Sec. 4077, Carroll's Kentucky Statutes.

H. B. 259. An Act to establish Cooperative Live Stock Protective Associations.

H. B. 200. An Act applying to teachers in the Public School System.

H. B. 323. An Act authorizing the creation of a County Veteran's Service Officer.

H. B. 330. An Act relating to the taxation of aviation motor fuel.

H. B. 328. An Act relating to pumps and measuring devices dispensing petroleum products.

H. B. 331. An Act to amend Section 8 Chapter 79 of the 1940 Acts.

H. B. 282. An Act relating to pharmacy.

H. B. 223. An Act relating to manufacture, transportation and sale of distilled spirits.

With the expression of opinion that said bills ought to pass.

Said bills were each and severally read at length the first time and ordered to be placed on the Calendar.

Mr. Beard of the Committee on Enrollment reported that they had examined and found to be correctly enrolled, a bill entitled:

S. B. 73. An Act to change the time of holding court in the 14th Judicial District.

Thereupon all other business was suspended, said bill was read at length and compared in open session and found to be correctly enrolled, and thereupon the Speaker in open session and in the presence of the House, affixed his signature thereto.

Ordered that said bill be delivered to the Enrolling Clerk of the Senate.

The House took up for consideration from the Clerk's Desk, a resolution which was reported to this House from the Senate on today, entitled:

S. Res. 42. (For resolution see Journal of today ante.)

Said resolution was then concurred in.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 292. An Act relating to the purchase or sale of any property, real, personal, or mixed, and entering into contracts, on behalf of the Commonwealth of Kentucky.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. No contract shall be entered into by the Division of Purchases and Public Properties under the direction of the Commissioner of Finance with any person, partnership,

firm, or corporation, in which any person employed in the Division of Purchases and Public Properties, or any official of the Commonwealth of Kentucky, elective or appointive, shall have any interest, directly or indirectly, or shall be a stockholder, nor with any relative of any employee of said Division of Purchases and Public Properties, either by blood or marriage within the third degree.

The taking or receiving, either directly or indirectly, by any employee of the Division of Purchases and Public Properties, or any official of the Commonwealth of Kentucky, elective or appointive, of any rebate, percentage of contract, money, or other thing of value, from any person, partnership, firm or corporation, offering, bidding for, or in open market seeking to make sales to the Commonwealth, shall be deemed a violation of this act.

Any violation of this section shall be deemed a felony and upon conviction such person or persons shall be punished by a fine not to exceed five thousand ($5,000) dollars and by imprisonment in the penitentiary for not less than five (5) nor more than ten (10) years.

Section 2. Every person, firm, or corporation, offering to make, or pay, or give, any rebate, percentage of contract, money, or any other thing of value, to any employee of the Division of Purchases and Public Properties, or to any official of the Commonwealth, elective or appointive, in his efforts to bid for, or offer for sale, or to seek in the open market, shall be deemed guilty of a felony and shall be punished by a fine not to exceed five thousand ($5,000) dollars and by imprisonment in the penitentiary for not less than five (5) nor more than ten (10) years.

Mr. Henry Ward moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| George P. Anderson | Chas. O. Humston | Kleber F. Price |
| Robert E. Barry | W. H. Hunt | James E. Quill |
| W. T. Beard | Crow Jarvis | L. Allen Rhoads |
| Robert E. Beatty | William L. Jones | Dr. J. J. Rice |
| Rell Bevins | John S. Juett | Wade H. Riley |
| Douglas T. Bolling | W. A. Lamkin | Byron H. Royster |
| H. M. Brock, Jr. | H. W. Linville | Dr. K. N. Salyer |
| Gus A. Brooks | A. L. Love | Carl Scheben |
| Sherman E. Carter | Harry K. Lowman | Leon J. Shaikun |
| C. L. Clayton | Hugh D. Lyon | Faust Y. Simpson |
| T. Fowler Combs | H. McCartney | Otto Smither |
| Oris Cooper | Norris McPherson | Charles L. Spilman |
| M. A. Cornett | Dr. Wm. C. Mann | James D. Stacey |
| John Henry Cox | Ed. Marcum | R. C. Stephenson |
| Rev. W. W. Crouch | C. C. May | C. W. Taylor |
| Guthrie F. Crowe | J. Milton Mefford | Egbert Taylor |
| Pink G. Curd | Sam Milam | Roy L. Taylor |
| Forest C. Easley | D. J. Moore | Rev. H. Tinsley |
| Harry W. Ennis | J. Lee Moore | J. Wood Vance |
| John D. Fields | L. D. Moore | S. J. Wagner |
| T. P. Fitzpatrick | C. E. Montgomery | C. R. Walden |
| W. W. Freeman | E. R. Morlidge | Harry Walters |
| P. Bert Hall | C. Sid Nabb | H. A. Ward |
| A. G. Hamilton, Jr. | Coy Nevitt | Henry Ward |
| Fuller Harding | H. C. Patterson | H. L. Waterfield |
| Jerry F. Howell | B. W. Porter | —77 |

Mr. Ward offered the following amendment to the title of said bill, viz.:

Amend the title to H. B. 292 by striking out all the title and inserting in lieu thereof the following:

"An Act relating to state purchases and providing penalties."

Said amendment was agreed to.

Resolved that the title thereof be as amended.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

S. B. 17. An Act relating to state warrants.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. (a) No state warrant shall be issued, reissued or continued in force if by its issuance, reissuance or continuance in force the total face amount of outstanding state warrants at the time will exceed the sum of Five Hundred Thousand ($500,000) Dollars.

(b) Any state warrant issued, reissued or continued in force in violation of this act shall be considered a debt in excess of the limitations of the Constitution of Kentucky, and shall be void.

(c) This is not intended to, nor shall it be construed so as to invalidate or affect the validity of any state warrant outstanding at the time of the effective date of this act.

SECTION 2. Since there is immediate need to limit the issuance of state warrants in order to prevent extravagance

and unwise borrowing, and it is the intention of the legislature to prevent the issuance of any warrant in violation of this act an emergency is declared to exist and this act shall take effect immediately upon its passage and approval by the Governor.

Mr. Henry Ward offered the following amendment to said bill, viz.:

Amend S. B. 17 on page 1, section 1 subsections (a) lines 1, 2, 3, 4 by striking out all of subsection (a) of Section 1 and inserting in lieu thereof the following:

(a) No interest-bearing state warrant shall be issued, reissued or continued in force as interest-bearing, or marked interest-bearing by the Treasurer, if by its issuance, reissuance or continuance in force the total face amount of outstanding interest-bearing state warrants at the time will exceed the sum of Five Hundred Thousand ($500,000) Dollars.

Said amendment was agreed to.

Mr. Henry Ward moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| George P. Anderson | Robert E. Beatty | Gus A. Brooks |
| Robert E. Barry | Rell Bevins | Sherman E. Carter |
| W. T. Beard | Douglas T. Bolling | C. L. Clayton |

| | | |
|---|---|---|
| T. Fowler Combs | W. A. Lamkin | James E. Quill |
| Oris Cooper | H. W. Linville | L. Allen Rhoads |
| M. A. Cornett | A. L. Love | Dr. J. J. Rice |
| John Henry Cox | Harry K. Lowman | Wade H. Riley |
| Rev. W. W. Crouch | Hugh D. Lyon | Dr. M. M. Robinson |
| Guthrie F. Crowe | H. McCartney | Byron H. Royster |
| Pink G. Curd | Norris McPherson | Dr. K. N. Salyer |
| Forest C. Easley | Dr. Wm. C. Mann | Carl Scheben |
| Harry W. Ennis | Ed. Marcum | Leon J. Shaikun |
| John D. Fields | C. C. May | Otto Smither |
| T. P. Fitzpatrick | J. Milton Mefford | Charles L. Spilman |
| W. W. Freeman | D. J. Moore | Dr. K. N. Salyer |
| P. Bert Hall | J. Lee Moore | R. C. Stephenson |
| A. G. Hamilton, Jr. | L. D. Moore | C. W. Taylor |
| E. R. Hilton | C. E. Montgomery | Egbert Taylor |
| Clyde S. Howard | F. E. Morancy | Rev. H. Tinsley |
| Jerry F. Howell | E. R. Morlidge | J. Wood Vance |
| Chas. O. Humston | C. Sid Nabb | S. J. Wagner |
| W. H. Hunt | Coy Nevitt | C. R. Walden |
| Joe B. Jarboe, Jr. | Robert Nicholas | H. A. Ward |
| Crow Jarvis | H. C. Patterson | Henry Ward |
| William L. Jones | B. W. Porter | H. L. Waterfield |
| John S. Juett | Kleber F. Price | —77 |

There voted in the negative—

Erna E. Tyra —1

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 154. An Act relating to education.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That each board of education of the Commonwealth of Kentucky shall make provision in the curriculum offered in the public schools under its jurisdiction for "the teaching of our democratic form of government."

Mr. Scheben moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| George P. Anderson | Pink G. Curd | W. H. Hunt |
| Robert E. Barry | Forest C. Easley | Crow Jarvis |
| Robert E. Beatty | Harry W. Ennis | William L. Jones |
| Rell Bevins | John D. Fields | John S. Juett |
| Douglas T. Bolling | T. P. Fitzpatrick | W. A. Lamkin |
| H. M. Brock, Jr. | W. W. Freeman | H. W. Linville |
| Gus A. Brooks | P. Bert Hall | Hugh D. Lyon |
| Sherman E. Carter | A. G. Hamilton, Jr. | Norris McPherson |
| C. L. Clayton | Fuller Harding | Dr. Wm. C. Mann |
| T. Fowler Combs | Joe Higgins | Ed. Marcum |
| Oris Cooper | E. R. Hilton | C. C. May |
| John Henry Cox | Clyde S. Howard | J. Milton Mefford |
| Rev. W. W. Crouch | Jerry F. Howell | D. J. Moore |
| Guthrie F. Crowe | Chas. O. Humston | J. Lee Moore |

| | | |
|---|---|---|
| L. D. Moore | L. Allen Rhoads | R. C. Stephenson |
| C. E. Montgomery | Dr. J. J. Rice | C. W. Taylor |
| F. E. Morancy | Wade H. Riley | Egbert Taylor |
| E. R. Morlidge | Dr. M. M. Robinson | Rev. H. Tinsley |
| C. Sid Nabb | Dr. K. N. Salyer | J. Wood Vance |
| Coy Nevitt | Carl Scheben | S. J. Wagner |
| Robert Nicholas | Leon J. Shaikun | C. R. Walden |
| H. C. Patterson | Faust Y. Simpson | H. A. Ward |
| B. W. Porter | Otto Smither | Henry Ward |
| Kleber F. Price | Charles L. Spilman | H. L. Waterfield |
| James E. Quill | James D. Stacey | —74 |

Resolved that the title thereof be as aforesaid.

Mr. Scheben moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 219. An Act authorizing clerks, sheriffs and jailers who are required to pay their fees into the State Treasury, to require depositories to execute bonds or to pledge assets of such banks as collatral security for deposits, providing the terms of such bonds or pledges of collateral securities and providing that such bonds or pledges shall not alter the rights of the Commonwealth or county to proceed on the officer's bond or against the banks individually.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Clerks, sheriffs and jailers who are required under Section 106 of the Constitution to pay the fees collected by them into the State Treasury shall have the right,

before naming any bank as a depository or permitting such bank to receive monies collected by them, to require the bank either to execute a bond with good surety or pledge assets to secure the deposits, as hereinafter set forth.

Section 2. If the bank elects to execute a bond, the bond shall be for a sum not less than the highest anticipated amount which may be on deposit in the bank at any time. The principal and sureties must be worth jointly not less than double the face amount of the bond. The bond shall be approved by the officer requiring it to be executed and shall be filed with and recorded by the county clerk.

Section 3. If the bank elects to secure the deposit by the pledge of assets of the bank, the officer may accept a pledge for that purpose of warrants of the Commonwealth of Kentucky, bridge revenue bonds of the Commonwealth of Kentucky, United States Government Bonds or such other bonds as are guaranteed in full by the United States Government or any combination of such securities. The pledge shall be in an amount at least ten percent in excess of the deposit based upon the current market price of the securities, and the bank shall maintain the value of the collateral securities at such figure as of the first day of every month. The securities shall be kept in a safe deposit box in a bank or trust company under an agreement which prevents either the officer or the bank from entering the box except in the presence of the other party or his duly authorized agent. The officer shall pay the rent of the safe deposit box. While the securities are so deposited, a list thereof shall be maintained by the bank and shall be submitted to the officer when the first deposit is made and each time thereafter that any change in the amount or kind of collateral securities is made, in order that the list may be kept current at all times.

Section 4. The execution of the bond or the pledge of securities as provided in this Act shall not alter the existing liability of the officer and his sureties upon his official bond; nor shall the execution of the bond or pledge impair or delay

the right of the Commonwealth or county to recover on the officer's bond for any misapplication of public funds or other delinquency in office. The execution of the bond or the pledge of securities by the bank shall not in any way impair or delay the right of the Commonwealth or county to recover from any delinquent or defaulting bank or the officers or stockholders thereof, in the same manner as other depositories. If a clerk, sheriff or jailer, authorized by this Act to require a bond or pledge of securities of a depository, fails to require such bond or pledge, he shall not be relieved of his liability as insurer of funds under his control as provided in § 186d-1 of Carroll's Kentucky Statutes.

Section 5. WHEREAS, clerks of courts, sheriffs, and jailers in counties having a population of seventy-five thousand (75,000), or more, are now making bank deposits of monies coming into their hands without any security being given guaranteeing payment of such monies on the part of the bank; and

WHEREAS, it is urgent that all such deposits be secured as quickly as possible in order to prevent any loss to the Commonwealth and to the respective counties thereof.

NOW, THEREFORE, an emergency is hereby declared to exist and this Act shall become effective immediately upon its passage and approval by the Governor.

Section 6. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, the number "KRS 62.080" shall be substituted for "§ 186d-1 of Carroll's Kentucky Statutes in section four of this Act.

Mr. Spilman moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| Robert E. Barry | Jerry F. Howell | H. C. Patterson |
| W. T. Beard | Chas. O. Humston | B. W. Porter |
| Robert E. Beatty | W. H. Hunt | Kleber F. Price |
| Douglas T. Bolling | Joe B. Jarboe, Jr. | L. Allen Rhoads |
| H. M. Brock, Jr. | Crow Jarvis | Dr. J. J. Rice |
| Gus A. Brooks | William L. Jones | Wade H. Riley |
| Sherman E. Carter | W. A. Lamkin | Dr. M. M. Robinson |
| C. L. Clayton | H. W. Linville | Byron H. Royster |
| T. Fowler Combs | A. L. Love | Carl Scheben |
| Oris Cooper | Hugh D. Lyon | Leon J. Shaikun |
| M. A. Cornett | H. McCartney | Faust Y. Simpson |
| John Henry Cox | Norris McPherson | Otto Smither |
| Rev. W. W. Crouch | Dr. Wm. C. Mann | Charles L. Spilman |
| Guthrie F. Crowe | Ed. Marcum | James D. Stacey |
| Pink G. Curd | C. C. May | R. C. Stephenson |
| Forest C. Easley | J. Milton Mefford | C. W. Taylor |
| Harry W. Ennis | Sam Milam | Egbert Taylor |
| John D. Fields | D. J. Moore | Rev. H. Tinsley |
| T. P. Fitzpatrick | J. Lee Moore | Erna E. Tyra |
| W. W. Freeman | L. D. Moore | S. J. Wagner |
| Joseph J. Grace | C. E. Montgomery | Harry Walters |
| P. Bert Hall | F. E. Morancy | H. A. Ward |
| A. G. Hamilton, Jr. | E. R. Morlidge | Henry Ward |
| Fuller Harding | C. Sid Nabb | H. L. Waterfield |
| E. R. Hilton | Coy Nevitt | |
| Clyde S. Howard | Robert Nicholas | —76 |

Resolved that the title thereof be as aforesaid.

Mr. Spilman moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 228. An Act relating to the time of holding Court in the Twenty-seventh Judicial District.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 965-27 of Carroll's Kentucky Statutes, 1936 Edition, is amended to read as follows:

Clay County, at Manchester, on the second Monday in February, twenty-four juridical days; on the second Monday in May, eighteen juridical days; on the fourth Monday in October, thirty juridical days.

Jackson County, at McKee, on the second Monday in March, eighteen juridical days; on the first Monday in June, eighteen juridical days; on the second Monday in October, twelve juridical days.

Laurel County, at London, on the first Monday in January, thirty juridical days; on the first Monday in April, thirty juridical days; on the first Monday in September, thirty juridical days.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of subsection (27) of KRS 23.050, and shall thereafter be treated as an amendment to subsection (27) of KRS 23.050 rather than an amendment to § 965-27 of Carroll's Statutes.

§ 3. Owing to the congested condition of the docket in said Twenty-seventh Judicial District, and the inconvenience in connection with the holding of Court in said District as the

terms are now fixed, an emergency is declared to exist, and this Act will become effective upon its passage and approval by the Governor.

Mr. James D. Stacey moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now passed?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| George P. Anderson | T. P. Fitzpatrick | C. C. May |
| Robert E. Barry | W. W. Freeman | J. Milton Mefford |
| W. T. Beard | P. Bert Hall | Sam Milam |
| Robert E. Beatty | A. G. Hamilton, Jr. | D. J. Moore |
| Rell Bevins | Fuller Harding | J. Lee Moore |
| Douglas T. Bolling | Joe Higgins | L. D. Moore |
| H. M. Brock, Jr. | E. R. Hilton | C. E. Montgomery |
| Gus A. Brooks | Clyde S. Howard | F. E. Morancy |
| Sherman E. Carter | Jerry F. Howell | E. R. Morlidge |
| C. L. Clayton | Chas. O. Humston | C. Sid Nabb |
| T. Fowler Combs | W. H. Hunt | Coy Nevitt |
| Oris Cooper | Crow Jarvis | Robert Nicholas |
| M. A. Cornett | William L. Jones | H. C. Patterson |
| Rev. W. W. Crouch | John S. Juett | Paul Pelfrey |
| Guthrie F. Crowe | W. A. Lamkin | B. W. Porter |
| Pink G. Curd | Hugh D. Lyon | Kleber F. Price |
| Forest C. Easley | H. McCartney | Dr. J. J. Rice |
| Harry W. Ennis | Norris McPherson | Wade H. Riley |
| John D. Fields | Ed. Marcum | Dr. M. M. Robinson |

| | | |
|---|---|---|
| Dr. K. N. Salyer | James D. Stacey | C. R. Walden |
| Carl Scheben | R. C. Stephenson | Harry Walters |
| Leon J. Shaikun | C. W. Taylor | H. A. Ward |
| Faust Y. Simpson | Egbert Taylor | Henry Ward |
| Clyde Smith | Rev. H. Tinsley | H. L. Waterfield |
| Otto Smither | Erna E. Tyra | |
| Charles L. Spilman | S. J. Wagner | —76 |

Resolved that the title thereof be as aforesaid.

Mr. James D. Stacey moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. Res. 6. A JOINT RESOLUTION authorizing Willie Whitt, John Wheeler, sole owner and operator of Wheeler Motor Company and Williams and Nickell Oil Company, a corporation, to jointly or separately sue the Commonwealth of Kentucky and the Department of Highways:

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

THAT Willie Whitt, John Wheeler, sole owner and operator of Wheeler Motor Company and Williams and Nickell Oil Company, a corporation, are authorized to sue the Commonwealth of Kentucky in Elliott Circuit Court for damages resulting from property damage caused by alleged negligence on the part of an employee of the Commonwealth of Kentucky while said employee was in the line of duty as an employee of this Commonwealth.

Said suit by Willie Whitt not to exceed the sum of $500.00; said suit by John Wheeler as sole owner and operator of

Wheeler Motor Company not to exceed the sum of $300.00; and said suit by Williams and Nickell Oil Company not to exceed the sum of $250.00.

The Attorney General of the Commonwealth of Kentucky may investigate the claims against the Commonwealth herein and settle said claims before or after suit is filed, if he deems it advisable. Any amount recovered in said suit or by settlement with the Attorney General shall be paid out of the general fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| George P. Anderson | T. Fowler Combs | T. P. Fitzpatrick |
| Robert E. Barry | Oris Cooper | P. Bert Hall |
| W. T. Beard | M. A. Cornett | A. G. Hamilton, Jr. |
| Robert E. Beatty | Rev. W. W. Crouch | Fuller Harding |
| Douglas T. Bolling | Guthrie F. Crowe | Joe Higgins |
| H. M. Brock, Jr. | Pink G. Curd | E. R. Hilton |
| Gus A. Brooks | Forest C. Easley | Clyde S. Howard |
| Sherman E. Carter | Harry W. Ennis | Jerry F. Howell |
| C. L. Clayton | John D. Fields | Chas. O. Humston |

| | | |
|---|---|---|
| W. H. Hunt | E. R. Morlidge | Clyde Smith |
| Joe B. Jarboe, Jr. | C. Sid Nabb | Otto Smither |
| Crow Jarvis | Coy Nevitt | James D. Stacey |
| John S. Juett | Robert Nicholas | R. C. Stephenson |
| W. A. Lamkin | H. C. Patterson | Thomas M. Swope |
| Hugh D. Lyon | Paul Pelfrey | C. W. Taylor |
| Norris McPherson | B. W. Porter | Egbert Taylor |
| Dr. Wm. C. Mann | Kleber F. Price | Roy L. Taylor |
| Ed. Marcum | L. Allen Rhoads | Erna E. Tyra |
| C. C. May | Dr. J. J. Rice | S. J. Wagner |
| J. Milton Mefford | Wade H. Riley | C. R. Walden |
| Sam Milam | Dr. M. M. Robinson | Harry Walters |
| D. J. Moore | Dr. K. N. Salyer | H. A. Ward |
| J. Lee Moore | Carl Scheben | Henry Ward |
| L. D. Moore | Leon J. Shaikun | |
| C. E. Montgomery | Faust Y. Simpson | —73 |

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. Res. 8. A Joint Resolution authorizing Charles B. Christian, Mrs. Charles B. Christian, William D. Kelley and Mrs. W. D. Kelley to sue the Commonwealth of Kentucky:

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That Charles B. Christian, Mrs. Charles B. Christian, William D. Kelly and Mrs. W. D. Kelley is/are authorized to sue the Commonwealth of Kentucky in Franklin Circuit

Court for damages resulting from personal injury (or property damage) caused by alleged negligence on the part of an employee of the Commonwealth of Kentucky while said employee was in the line of duty as an employee of this Commonwealth.

Said suit shall be for a sum not in excess of $2,500.00.

The Attorney General of the Commonwealth of Kentucky may investigate the claim (or claims) against the Commonwealth herein and settle said claim (or claims) before or after suit is filed, if he deems it advisable. Any amount recovered in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the County of Appeals of Kentucky.

No statement in this resolution shall be considered by either the court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| George P. Anderson | Douglas T. Bolling | C. L. Clayton |
| Robert E. Barry | H. M. Brock, Jr. | T. Fowler Combs |
| W. T. Beard | Gus A. Brooks | Oris Cooper |
| Robert E. Beatty | Sherman E. Carter | M. A. Cornett |

| | | |
|---|---|---|
| Rev. W. W. Crouch | Norris McPherson | Dr. M. M. Robinson |
| Guthrie F. Crowe | Dr. Wm. C. Mann | Dr. K. N. Salyer |
| Pink G. Curd | Ed. Marcum | Carl Scheben |
| Forest C. Easley | C. C. May | Leon J. Shaikun |
| Harry W. Ennis | J. Milton Mefford | Faust Y. Simpson |
| John D. Fields | Sam Milam | Clyde Smith |
| T. P. Fitzpatrick | D. J. Moore | Otto Smither |
| Bert P. Hall | J. Lee Moore | James D. Stacey |
| A. G. Hamilton, Jr. | L. D. Moore | R. C. Stephenson |
| Fuller Harding | C. E. Montgomery | Thomas M. Swope |
| Joe Higgins | E. R. Morlidge | C. W. Taylor |
| E. R. Hilton | C. Sid Nabb | Egbert Taylor |
| Clyde S. Howard | Coy Nevitt | Roy L. Taylor |
| Jerry F. Howell | Robert Nicholas | Erna E. Tyra |
| Chas. O. Humston | H. C. Patterson | S. J. Wagner |
| W. H. Hunt | Paul Pelfrey | C. R. Walden |
| Joe B. Jarboe, Jr. | B. W. Porter | Harry Walters |
| Crow Jarvis | Kleber F. Price | H. A. Ward |
| John S. Jvett | L. Allen Rhoads | Henry Ward |
| W. A. Lamkin | Dr. J. J. Rice | |
| Hugh D. Lyon | Wade H. Riley | —73 |

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. Res. 11. A Joint Resolution authorizing Robert Gore, of Taylor County, Kentucky, to sue the Commonwealth of Kentucky.

Said Resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That Robert Gore, of Taylor County, Kentucky, is authorized to sue the Commonwealth of Kentucky in Taylor Circuit Court for damages resulting from property damage caused by alleged negligence on the part of an employee of the Commonwealth of Kentucky while said employee was in the line of duty as an employee of this Commonwealth.

Said suit shall be for a sum not in excess of $65.00.

The Attorney General of the Commonwealth of Kentucky may investigate the claim against the Commonwealth herein and settle said claim before or after suit is filed, if he deems it advisable. Any amount recovered in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| George P. Anderson | W. T. Beard | Douglas T. Bolling |
| Robert E. Barry | Robert E. Beatty | H. M. Brock, Jr. |

| | | |
|---|---|---|
| Gus A. Brooks | Crow Jarvis | Dr. J. J. Rice |
| Sherman E. Carter | John S. Juett | Wade H. Riley |
| C. L. Clayton | W. A. Lamkin | Dr. M. M. Robinson |
| T. Fowler Combs | Hugh D. Lyon | Dr. K. N. Salyer |
| Oris Cooper | Norris McPherson | Carl Scheben |
| M. A. Cornett | Dr. Wm. C. Mann | Leon J. Shaikun |
| Rev. W. W. Crouch | Ed. Marcum | Faust Y. Simpson |
| Guthrie F. Crowe | C. C. May | Clyde Smith |
| Pink G. Curd | J. Milton Mefford | Otto Smither |
| Forest C. Easley | Sam Milam | James D. Stacey |
| Harry W. Ennis | D. J. Moore | R. C. Stephenson |
| John D. Fields | J. Lee Moore | Thomas M. Swope |
| T. P. Fitzpatrick | L. D. Moore | C. W. Taylor |
| P. Bert Hall | C. E. Montgomery | Egbert Taylor |
| A. G. Hamilton, Jr. | E. R. Morlidge | Roy L. Taylor |
| Fuller Harding | C. Sid Nabb | Erna E. Tyra |
| Joe Higgins | Coy Nevitt | S. J. Wagner |
| E. R. Hilton | Robert Nicholas | C. R. Walden |
| Clyde S. Howard | H. C. Patterson | Harry Walters |
| Jerry F. Howell | Paul Pelfrey | H. A. Ward |
| Chas. O. Humston | B. W. Porter | Henry Ward |
| W. H. Hunt | Kleber F. Price | |
| Joe B. Jarboe, Jr. | L. Allen Rhoads | —73 |

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. Res. 12. Resolution authorizing Carl K. Giles to file suit against the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

WHEREAS on December 5th, 1941 at the Central State Hospital at Lakeland, Kentucky Cary K. Giles, an employee of the Commonwealth of Kentucky, was severely injured due to the alleged carelessness and negligence of the agents, and or employees of the Commonwealth of Kentucky in furnishing to the said Carl K. Giles old and defective equipment with which to work.

NOW in order that said Carl K. Giles may have his day in Court to determine by judicial action the question of negligence, if any, causing said injuries aforesaid,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That Carl K. Giles, or in the event of his death before or during the prosecution of this action to its final conclusion, his executor or administrator, be and he is hereby empowered and authorized to file and prosecute appropriate actions against the Commonwealth of Kentucky, for the purpose of determining the liability of the Commonwealth of Kentucky for such injury, if any there be; and in the event any judgment in the action is recovered by said Carl K. Giles, or same be compromised or settled, same shall be paid by the Commissioner of Finance by warrant drawn on the State Treasurer, and paid out of the general fund. Either party to any suit may appeal from any judgment which may be entered therein as in and other civil suit, and the case may be settled and adjusted with the consent and approval of the Attorney General of Kentucky in the same way as any other civil case.

Such action may be brought in any county of Kentucky having jurisdiction of the parties and subject matter.

Nothing contained in this Resolution shall be considered by either the Court or jury as substantive evidence on the merits of the alleged claim, and the Court shall instruct the jury that the Resolution authorizing this suit shall not be

considered as an admission by the Commonwealth of Kentucky of any liability on the part of the Commonwealth of Kentucky, nor an admission that any verdict of any kind whatsoever shall be rendered for the Plaintiff.

In the event that any suit is filed under this resolution the amount of recovery is limited to the sum of Three Thousand Dollars.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| George P. Anderson | A. G. Hamilton, Jr. | J. Lee Moore |
| Robert E. Barry | Fuller Harding | L. D. Moore |
| W. T. Beard | Joe Higgins | C. E. Montgomery |
| Robert E. Beatty | E. R. Hilton | E. R. Morlidge |
| Douglas T. Bolling | Clyde S. Howard | C. Sid Nabb |
| H. M. Brock, Jr. | Jerry F. Howell | Coy Nevitt |
| Gus A. Brooks | Chas. O. Humston | Robert Nicholas |
| Sherman E. Carter | W. H. Hunt | H. C. Patterson |
| C. L. Clayton | Joe B. Jarboe, Jr. | Paul Pelfrey |
| T. Fowler Combs | Crow Jarvis | B. W. Porter |
| Oris Cooper | John S. Juett | Kleber F. Price |
| M. A. Cornett | W. A. Lamkin | L. Allen Rhoads |
| Rev. W. W. Crouch | Hugh D. Lyon | Dr. J. J. Rice |
| Guthrie F. Crowe | Norris McPherson | Wade H. Riley |
| Pink G. Curd | Dr. Wm. C. Mann | Dr. M. M. Robinson |
| Forest C. Easley | Ed. Marcum | Dr. K. N. Salyer |
| Harry W. Ennis | C. C. May | Carl Scheben |
| John D. Fields | J. Milton Mefford | Leon J. Shaikun |
| T. P. Fitzpatrick | Sam Milam | Faust Y. Simpson |
| Bert P. Hall | D. J. Moore | Clyde Smith |

| | | | |
|---|---|---|---|
| Otto Smither | Egbert Taylor | Harry Walters | |
| James D. Stacey | Roy L. Taylor | H. A. Ward | |
| R. C. Stephenson | Erna E. Tyra | Henry Ward | |
| Thomas M. Swope | S. J. Wagner | | |
| C. W. Taylor | C. R. Walden | | —73 |

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. Res. 20. A Joint Resolution authorizing Mr. Charles Duncan to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

The Charles Duncan is/are authorized to sue the Commonwealth of Kentucky in Henderson Circuit Court for damages resulting from personal injury (or property damage) caused by alleged negligence on the part of an employee of the Commonwealth of Kentucky while said employee was in the line of duty as an employee of this Commonwealth.

Said suit shall be for a sum not in excess of $152.91.

The Attorney General of the Commonwealth of Kentucky may investigate the claim (or claims) against the Commonwealth herein and settle said claim (or claims) before or after suit is filed, if he deems it advisable. Any amount recovered in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Terasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| George P. Anderson | A. G. Hamilton, Jr. | J. Lee Moore |
| Robert E. Barry | Fuller Harding | L. D. Moore |
| W. T. Beard | Joe Higgins | C. E. Montgomery |
| Robert E. Beatty | E. R. Hilton | E. R. Morlidge |
| Douglas T. Bolling | Clyde S. Howard | C. Sid Nabb |
| H. M. Brock, Jr. | Jerry F. Howell | Coy Nevitt |
| Gus A. Brooks | Chas. O. Humston | Robert Nicholas |
| Sherman E. Carter | W. H. Hunt | H. C. Patterson |
| C. L. Clayton | Joe B. Jarboe, Jr. | Paul Pelfrey |
| T. Fowler Combs | Crow Jarvis | B. W. Porter |
| Oris Cooper | John S. Juett | Kleber F. Price |
| M. A. Cornett | W. A. Lamkin | L. Allen Rhoads |
| Rev. W. W. Crouch | Hugh D. Lyon | Dr. J. J. Rice |
| Guthrie F. Crowe | Norris McPherson | Wade H. Riley |
| Pink G. Curd | Dr. Wm. C. Mann | Dr. M. M. Robinson |
| Forest C. Easley | Ed. Marcum | Dr. K. N. Salyer |
| Harry W. Ennis | C. C. May | Carl Scheben |
| John D. Fields | J. Milton Mefford | Leon J. Shaikun |
| T. P. Fitzpatrick | Sam Milam | Faust Y. Simpson |
| Bert P. Hall | D. J. Moore | Clyde Smith |

| | | | |
|---|---|---|---|
| Otto Smither | Egbert Taylor | C. R. Walden | |
| James D. Stacey | Roy L. Taylor | Harry Walters | |
| R. C. Stephenson | Erna E. Tyra | H. A. Ward | |
| Thomas M. Swope | J. Wood Vance | | |
| C. W. Taylor | S. J. Wagner | | —73 |

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. Res. 21. A Joint Resolution authorizing Joseph S. Chamberlain, Sadie B. Chamberlain, Rodney Chamberlain, 19 years old, and Elizabeth Chamberlain, 16 years old, by their statutory guardian to sue the Commonwealth of Kentucky:

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

THAT Joseph S. Chamberlain, Sadie B. Chamberlain, Rodney Chamberlain, 19 years old, and Elizabeth Chamberlain, 16 years old, by their Statutory guardian is/are authorized to sue the Commonwealth of Kentucky in Jefferson County Circuit Court for damages resulting from personal injury (or property damage) caused by alleged negligence on the part of an employee of the Commonwealth of Kentucky while said employee was in the line of duty as an employee of this Commonwealth.

Said suit shall be for a sum not in excess of $5,000.00.

The Attorney General of the Commonwealth of Kentucky may investigate the claim (or claims) against the Common-

wealth herein and settle said claim (or claims) before or after suit is filed, if he deems it advisable. Any amount recovered in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appear to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| George P. Anderson | Guthrie F. Crowe | Chas. O. Humston |
| Robert E. Barry | Pink G. Curd | W. H. Hunt |
| W. T. Beard | Forest C. Easley | Joe B. Jarboe, Jr. |
| Robert E. Beatty | Harry W. Ennis | Crow Jarvis |
| Douglas T. Bolling | John D. Fields | John S. Juett |
| H. M. Brock, Jr. | T. P. Fitzpatrick | W. A. Lamkin |
| Gus A. Brooks | Bert P. Hall | Hugh D. Lyon |
| Sherman E. Carter | A. G. Hamilton, Jr. | Norris McPherson |
| C. L. Clayton | Fuller Harding | Dr. Wm. C. Mann |
| T. Fowler Combs | Joe Higgins | Ed. Marcum |
| Oris Cooper | E. R. Hilton | C. C. May |
| M. A. Cornett | Clyde S. Howard | J. Milton Mefford |
| Rev. W. W. Crouch | Jerry F. Howell | Sam Milam |

| | | |
|---|---|---|
| D. J. Moore | L. Allen Rhoads | Thomas M. Swope |
| J. Lee Moore | Dr. J. J. Rice | C. W. Taylor |
| L. D. Moore | Wade H. Riley | Egbert Taylor |
| C. E. Montgomery | Dr. M. M. Robinson | Roy L. Taylor |
| E. R. Morlidge | Dr. K. N. Salyer | Erna E. Tyra |
| C. Sid Nabb | Carl Scheben | J. Wood Vance |
| Coy Nevitt | Leon J. Shaikun | S. J. Wagner |
| Robert Nicholas | Faust Y. Simpson | C. R. Walden |
| H. C. Patterson | Clyde Smith | Harry Walters |
| Paul Pelfrey | Otto Smither | H. A. Ward |
| B. W. Porter | James D. Stacey | |
| Kleber F. Price | R. C. Stephenson | —73 |

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. Res. 41. A Joint Resolution appropriating to T. R. Sullivan, former Deputy Sheriff of Russell County the sum of $72.00 for expenses incurred in connection with acting as agent on the part of the state for the return of a fugitive from justice.

Said resolution is as follows, viz.:

WHEREAS, T. R. Sullivan, former Deputy Sheriff of Russell County was on June 4, 1938 made the agent of the Commonwealth of Kentucky to go to the State of North Carolina for the purpose of demanding and receiving from the proper authorities of that state one Alva Morgan, a fugitive from justice from the state of Kentucky, and

WHEREAS, the said T. R. Sullivan went to the State of North Carolina for the purpose of returning the fugitive, and

WHEREAS, the Governor of the State of North Carolina refused to honor the requisition for the return of said fugitive, and

WHEREAS, the expenses incurred by T. R. Sullivan in going to and returning from the State of North Carolina as agent for the Commonwealth amounted to the sum of $72.00, and said expenses have not been paid to the said T. R. Sullivan because of the refusal of the Governor of the State of North Carolina to honor the requisition of the Governor of this Commonwealth.

NOW THEREFORE,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That there is hereby appropriated out of the general fund to T. R. Sullivan the sum of $72.00 and the Department of Finance is hereby directed to draw its warrant upon the Treasurer in favor of T. R. Sullivan for said amount.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| George P. Anderson | Gus A. Brooks | Rev. W. W. Crouch |
| Robert E. Barry | Sherman E. Carter | Guthrie F. Crowe |
| W. T. Beard | C. L. Clayton | Pink G. Curd |
| Robert E. Beatty | T. Fowler Combs | Forest C. Easley |
| Douglas T. Bolling | Oris Cooper | Harry W. Ennis |
| H. M. Brock, Jr. | M. A. Cornett | John D. Fields |

| | | |
|---|---|---|
| T. P. Fitzpatrick | J. Milton Mefford | Carl Scheben |
| P. Bert Hall | Sam Milam | Leon J. Shaikun |
| A. G. Hamilton, Jr. | D. J. Moore | Faust Y. Simpson |
| Fuller Harding | J. Lee Moore | Clyde Smith |
| Joe Higgins | L. D. Moore | Otto Smither |
| E. R. Hilton | C. E. Montgomery | James D. Stacey |
| Clyde S. Howard | E. R. Morlidge | R. C. Stephenson |
| Jerry F. Howell | C. Sid Nabb | Thomas M. Swope |
| Chas. O. Humston | Coy Nevitt | C. W. Taylor |
| W. H. Hunt | Robert Nicholas | Egbert Taylor |
| Joe B. Jarboe, Jr. | H. C. Patterson | Roy L. Taylor |
| Crow Jarvis | Paul Pelfrey | Erna E. Tyra |
| John S. Juett | B. W. Porter | S. J. Wagner |
| W. A. Lamkin | Kleber F. Price | C. R. Walden |
| Hugh D. Lyon | L. Allen Rhoads | Harry Walters |
| Norris McPherson | Dr. J. J. Rice | H. A. Ward |
| Dr. Wm. C. Mann | Wade H. Riley | Henry Ward |
| Ed. Marcum | Dr. M. M. Robinson | |
| C. C. May | Dr. K. N. Salyer | —73 |

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. Res. 57. A Joint Resolution authorizing Ruth A. King to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

THAT Ruth A. King is authorized to sue the Commonwealth of Kentucky in the Harrison Circuit Court for dam-

ages resulting from failure to pay her certain salary which she alleges was due her as compensation for services performed and work done for the Commonwealth of Kentucky.

Said suit shall be for a sum not in excess of $50.00.

The Attorney General of the Commonwealth of Kentucky may investigate the claim against the Commonwealth herein and settle said claim before or after suit is filed, if he deems it advisable. Any amount recovered in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence or liability upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| George P. Anderson | Sherman E. Carter | Pink G. Curd |
| Robert E. Barry | C. L. Clayton | Forest C. Easley |
| W. T. Beard | T. Fowler Combs | Harry W. Ennis |
| Robert E. Beatty | Oris Cooper | John D. Fields |
| Douglas T. Bolling | M. A. Cornett | T. P. Fitzpatrick |
| H. M. Brock, Jr. | Rev. W. W. Crouch | Bert Hall |
| Gus A. Brooks | Guthrie F. Crowe | A. G. Hamilton, Jr. |

| | | |
|---|---|---|
| Fuller Harding | D. J. Moore | Leon J. Shaikun |
| Joe Higgins | J. Lee Moore | Faust Y. Simpson |
| E. R. Hilton | L. D. Moore | Clyde Smith |
| Clyde S. Howard | C. E. Montgomery | Otto Smither |
| Jerry F. Howell | E. R. Morlidge | James D. Stacey |
| Chas. O. Humston | C. Sid Nabb | R. C. Stephenson |
| W. H. Hunt | Coy Nevitt | Thomas M. Swope |
| Joe B. Jarboe, Jr. | Robert Nicholas | C. W. Taylor |
| Crow Jarvis | H. C. Patterson | Egbert Taylor |
| John S. Juett | Paul Pelfrey | Roy L. Taylor |
| W. A. Lamkin | B. W. Porter | Erna E. Tyra |
| Hugh D. Lyon | Kleber F. Price | S. J. Wagner |
| Norris McPherson | L. Allen Rhoads | C. R. Walden |
| Dr. Wm. C. Mann | Dr. J. J. Rice | Harry Walters |
| Ed. Marcum | Wade H. Riley | H. A. Ward |
| C. C. May | Dr. M. M. Robinson | Henry Ward |
| J. Milton Mefford | Dr. K. N. Salyer | |
| Sam Milam | Carl Scheben | —73 |

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. Res. 58. A Joint Resolution authorizing Carl Tracy to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

THAT Carl Tracy is authorized to sue the Commonwealth of Kentucky in Franklin Circuit Court for damages

resulting from personal injury caused by alleged negligence on the part of an employee of the Commonwealth of Kentucky while said employee was in the line of duty as an employee of this Commonwealth.

Said suit shall be for a sum not in excess of eight thousand ($8,000.00) dollars.

The Attorney General of the Commonwealth of Kentucky may investigate the claim against the Commonwealth herein and settle said claim before or after suit is filed, if he deems it advisable. Any amount recovered in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| George P. Anderson | H. M. Brock, Jr. | Oris Cooper |
| Robert E. Barry | Gus A. Brooks | M. A. Cornett |
| W. T. Beard | Sherman E. Carter | Rev. W. W. Crouch |
| Robert E. Beatty | C. L. Clayton | Guthrie F. Crowe |
| Douglas T. Bolling | T. Fowler Combs | Pink G. Curd |

| | | |
|---|---|---|
| Forest C. Easley | Ed. Marcum | Dr. K. N. Salyer |
| Harry W. Ennis | C. C. May | Carl Scheben |
| John D. Fields | J. Milton Mefford | Leon J. Shaikun |
| T. P. Fitzpatrick | Sam Milam | Faust Y. Simpson |
| P. Bert Hall | D. J. Moore | Clyde Smith |
| A. G. Hamilton, Jr. | J. Lee Moore | Otto Smither |
| Fuller Harding | L. D. Moore | James D. Stacey |
| Joe Higgins | C. E. Montgomery | R. C. Stephenson |
| E. R. Hilton | E. R. Morlidge | Thomas M. Swope |
| Clyde S. Howard | C. Sid Nabb | C. W. Taylor |
| Jerry F. Howell | Coy Nevitt | Egbert Taylor |
| Chas. O. Humston | Robert Nicholas | Roy L. Taylor |
| W. H. Hunt | H. C. Patterson | Erna E. Tyra |
| Joe B. Jarboe, Jr. | Paul Pelfrey | S. J. Wagner |
| Crow Jarvis | B. W. Porter | C. R. Walden |
| John S. Juett | Kleber F. Price | Harry Walters |
| W. A. Lamkin | L. Allen Rhoads | H. A. Ward |
| Hugh D. Lyon | Dr. J. J. Rice | Henry Ward |
| Norris McPherson | Wade H. Riley | |
| Dr. Wm. C. Mann | Dr. M. M. Robinson | —73 |

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

S. Res. 7. A Joint Resolution for the benefit of the Bank of Blaine, a banking corporation, of Blaine, Kentucky, for refund of money erroneously paid for taxes.

Said resolution is as follows, viz.:

WHEREAS the Board of Equalization of Lawrence County, Kentucky, did assess against the Bank of Blaine all

real estate mortgages held by it as of July 1, 1938, in the sum of $30,443.00, and

WHEREAS no notice of said assessment was given to the Bank of Blaine, and

WHEREAS the said mortgages were reported by the Bank of Blaine as provided by Kentucky Statutes 4109a-10, and

WHEREAS the value of said mortgages was included in arriving at the value of the shares of stock of said Bank of Blaine for taxation for the year 1939, and

WHEREAS in addition to said values of shares of stock the Bank of Blaine was charged with taxes on said $30,433.00 worth of mortgages, and a tax bill was prepared by Wm. W. Moore, County Court Clerk of Lawrence County, for said amount and exhibited to the Bank of Blaine by Proctor Fyffe, Sheriff of Lawrence County, and collection of same required, and

WHEREAS, payment of tax on said $30,433.00, the value of the mortgages, at the rate of fifty cents per one hundred dollar valuation, to-wit, the sum of $152.22, less only the discount of two per cent, making a net total of $149.18, was collected from the Bank of Blaine for said taxes, and

WHEREAS the same to said extent of $149.18 is a duplication of taxes; a duplication of assessments and a duplication of collection against said Bank of Blaine for said year of 1939, therefore

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That the Bank of Blaine, a banking corporation, of Blaine, Kentucky, is entitled to a refund in the sum of $149.18, because said sum was erroneously assessed and collected from it for taxes as aforesaid. Immediately upon passage of this resolution the Commissioner of Finance is directed to draw a warrant in favor of the Bank of Blaine, a corporation, in the aforesaid amount of $149.18, and imme-

diately transmit it to the State Treasurer who shall issue a check in favor of the Bank of Blaine, a corporation, in the amount of $149.18 from the general expenditure Fund.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| George P. Anderson | Jerry F. Howell | Kleber F. Price |
| Robert E. Barry | Chas. O. Humston | L. Allen Rhoads |
| W. T. Beard | W. H. Hunt | Dr. J. J. Rice |
| Robert E. Beatty | Joe B. Jarboe, Jr. | Wade H. Riley |
| Douglas T. Bolling | Crow Jarvis | Dr. M. M. Robinson |
| H. M. Brock, Jr. | John S. Juett | Dr. K. N. Salyer |
| Gus A. Brooks | W. A. Lamkin | Carl Scheben |
| Sherman E. Carter | Hugh D. Lyon | Leon J. Shaikun |
| C. L. Clayton | Norris McPherson | Faust Y. Simpson |
| T. Fowler Combs | Dr. Wm. C. Mann | Clyde Smith |
| Oris Cooper | Ed. Marcum | Otto Smither |
| M. A. Cornett | C. C. May | James D. Stacey |
| Rev. W. W. Crouch | J. Milton Mefford | R. C. Stephenson |
| Guthrie F. Crowe | Sam Milam | Thomas M. Swope |
| Pink G. Curd | D. J. Moore | C. W. Taylor |
| Forest C. Easley | J. Lee Moore | Egbert Taylor |
| Harry W. Ennis | L. D. Moore | Roy L. Taylor |
| John D. Fields | C. E. Montgomery | Erna E. Tyra |
| T. P. Fitzpatrick | E. R. Morlidge | S. J. Wagner |
| Bert Hall | C. Sid Nabb | C. R. Walden |
| A. G. Hamilton, Jr. | Coy Nevitt | Harry Walters |
| Fuller Harding | Robert Nicholas | H. A. Ward |
| Joe Higgins | H. C. Patterson | Henry Ward |
| E. R. Hilton | Paul Pelfrey | |
| Clyde S. Howard | B. W. Porter | —73 |

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a resolution entitled:

H. Res. 5. A Joint Resolution authorizing Louis F. Graham of Owensboro, Daviess County, Kentucky to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

THAT Louis F. Graham is authorized to sue the Commonwealth of Kentucky in the Daviess Circuit Court for damages resulting from personal injury (and property damage) caused by alleged negligence on the part of an employee of the Commonwealth of Kentucky while said employee was in the line of duty as an employee of this Commonwealth.

Said suit shall be for a sum not in excess of $500.00.

The Attorney General of the Commonwealth of Kentucky may investigate the claim against the Commonwealth herein and settle said claim before or after suit is filed, if he deems it advisable. Any amount recovered in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon

the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

Mr. Simpson offered the following amendment to said resolution, viz.:

Amend H. Res. 5 by striking out said line 7 on page 1 of section 1 and inserting in lieu thereof the following:

"Said suit shall be for a sum not in excess of $5,000.00"

Said amendment was agreed to.

Ordered that said resolution be engrossed and read the third time.

The Constitutional provision as to the third reading of said resolution at length being dispensed with, and the same being engrossed, said resolution was read the third time by it title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| George P. Anderson | Forest C. Easley | John S. Juett |
| Robert E. Barry | Harry W. Ennis | W. A. Lamkin |
| W. T. Beard | John D. Fields | Hugh D. Lyon |
| Robert E. Beatty | T. P. Fitzpatrick | Norris McPherson |
| Douglas T. Bolling | Bert P. Hall | Dr. Wm. C. Mann |
| H. M. Brock, Jr. | A. G. Hamilton, Jr. | Ed. Marcum |
| Gus A. Brooks | Fuller Harding | C. C. May |
| Sherman E. Carter | Joe Higgins | J. Milton Mefford |
| C. L. Clayton | E. R. Hilton | Sam Milam |
| T. Fowler Combs | Clyde S. Howard | D. J. Moore |
| Oris Cooper | Jerry F. Howell | J. Lee Moore |
| M. A. Cornett | Chas. O. Humston | L. D. Moore |
| Rev. W. W. Crouch | W. H. Hunt | C. E. Montgomery |
| Guthrie F. Crowe | Joe B. Jarboe, Jr. | E. R. Morlidge |
| Pink G. Curd | Crow Jarvis | C. Sid Nabb |

| | | |
|---|---|---|
| Coy Nevitt | Dr. K. N. Salyer | Egbert Taylor |
| Robert Nicholas | Carl Scheben | Roy L. Taylor |
| H. C. Patterson | Leon J. Shaikun | Erna E. Tyra |
| Paul Pelfrey | Faust Y. Simpson | S. J. Wagner |
| B. W. Porter | Clyde Smith | C. R. Walden |
| Kleber F. Price | Otto Smither | Harry Walters |
| L. Allen Rhoads | James D. Stacey | H. A. Ward |
| Dr. J. J. Rice | R. C. Stephenson | Henry Ward |
| Wade H. Riley | Thomas M. Swope | |
| Dr. M. M. Robinson | C. W. Taylor | —73 |

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said resolution was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a resolution entitled:

H. Res. 59. A Joint Resolution authorizing the personal representative, William Flannery, Grant Judd, and Augustus Mainous to sue the Commonwealth of Kentucky.

With a Committee amendment thereto.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That the personal representatives, William Flannery, Grant Judd, and Augustus Mainous are authorized to sue the Commonwealth of Kentucky in Owsley Circuit Court for damages resulting from person injury, causing the death of each of their intestates and damage to their estates, caused by alleged negligence on the part of an employee of the Com-

monwealth of Kentucky while said employee was in the line of duty as an employee of this Commonwealth.

Said suit shall be for a sum not in excess of $25,000.00 each.

The Attorney General of the Commonwealth of Kentucky may investigate the claim (or claims) against the Commonwealth herein and settle said claim (or claims) before or after suit is filed, if he deems it advisable. Any amount recovered in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

Said amendment as proposed by the Committee is as follows, viz.:

Amend H. Res. 59 on page 1, line ..... by striking therefrom the figures "$25,000.00" and writing in lieu thereof the figures "$10,000.00."

Said amendment was agreed to.

Ordered that said resolution be engrossed and read the third time.

The Constitutional provision as to the third reading of said resolution at length being dispensed with and the same being engrossed, said resolution was read the third time by it title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| George P. Anderson | Jerry F. Howell | Kleber F. Price |
| Robert E. Barry | Chas. O. Humston | L. Allen Rhoads |
| W. T. Beard | W. H. Hunt | Dr. J. J. Rice |
| Robert E. Beatty | Joe B. Jarboe, Jr. | Wade H. Riley |
| Douglas T. Bolling | Crow Jarvis | Dr. M. M. Robinson |
| H. M. Brock, Jr. | John S. Juett | Dr. K. N. Salyer |
| Gus A. Brooks | W. A. Lankin | Carl Scheben |
| Sherman E. Carter | Hugh D. Lyon | Leon J. Shaikun |
| C. L. Clayton | Norris McPherson | Faust Y. Simpson |
| T. Fowler Combs | Dr. Wm. C. Mann | Clyde Smith |
| Oris Cooper | Ed. Marcum | Otto Smither |
| M. A. Cornett | C. C. May | James D. Stacey |
| Rev. W. W. Crouch | J. Milton Mefford | R. C. Stephenson |
| Guthrie F. Crowe | Sam Milam | Thomas M. Swope |
| Pink G. Curd | D. J. Moore | C. W. Taylor |
| Forest C. Easley | J. Lee Moore | Egbert Taylor |
| Harry W. Ennis | L. D. Moore | Roy L. Taylor |
| John D. Fields | C. E. Montgomery | Erna E. Tyra |
| T. P. Fitzpatrick | E. R. Morlidge | S. J. Wagner |
| Bert Hall | C. Sid Nabb | C. R. Walden |
| A. G. Hamilton, Jr. | Coy Nevitt | Harry Walters |
| Fuller Harding | Robert Nicholas | H. A. Ward |
| Joe Higgins | H. C. Patterson | Henry Ward |
| E. R. Hilton | Paul Pelfrey | |
| Clyde S. Howard | B. W. Porter | —73 |

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said resolution was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the following bills and resolutions were introduced, viz.:

By Mr. Waterfield.

H. B. 332. An Act transferring the Division of Purchases and Public Properties from the Department of Finance, and making it a separate agency under the direction and control of the Governor of the Commonwealth; providing for the appointment of the Director of the Division of Purchases and Public Properties by the Governor; and transferring authorities and duties of the Purchasing Agent to the Director of the Division of Purchases and Public Properties.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That all of the powers, authority and duties of the Division of Purchases and Public Properties mentioned and referred to in the 1936 Governmental Reorganization Act, and in all acts mandatory thereto, and all of the duties, powers and responsibilities otherwise transferred to and exercised by the Division of Purchases and Public Properties, be transferred from the Department of Finance to the Governor of the Commonwealth of Kentucky and set up as a separate agency, under the direct authority and supervision of the Governor of the Commonwealth of Kentucky.

Section 2. All power, responsibilities, duties and work of said Department shall be performed and administered by a Director of the Division of Purchases and Public Properties, who shall also exercise all of the duties now enjoined upon the Purchasing Agent referred to in section 4818-89 of Baldwin's 1936 edition of Carroll's Kentucky Statutes. Said Director shall be appointed by the Governor of the Commonwealth and hold his office for a period of four (4) years, subject to removal by the Governor at any time for cause deemed sufficient by the Governor.

Section 3. All laws and parts of laws in conflict herewith are hereby repealed.

By. Mr. Humston.

H. B. 333. An Act to amend and re-enact Sec. 42.990 Kentucky Revised Statutes.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That § 42.990 Kentucky Revised Statutes be amended and re-enacted, so that when amended said statute shall provide as follows:

*Penalties.* (1) Any person who knowingly violates any of the provisions of KRS 42.080 to 42.100 with respect to the duties of employer shall be fined for the first offense not more than one thousand dollars, and for the second offense not more than five thousand dollars, and, if a corporation, its charter may be forfeited in the discretion of the jury.

(2) Any person who violates any of the provisions of KRS 42.080 to 42.100 with respect to the duties of salesmen, brokers, attorneys, agents, subagents or other representatives shall be fined not more than five thousand dollars or confined in the penitentiary for not more than five years, or both.

(3) Any officer, agent or employe of the Department of Finance who willfully fails or refuses to comply with any of the provisions of KRS 42.160 shall be subject to indictment in the Franklin circuit court and, upon conviction, shall be fined not less than fifty dollars nor more than five hundred dollars for each offense.

(4) Any person violating the provisions of KRS 42.150 shall be fined not less than one hundred dollars, nor more than five hundred dollars, for each offense, and from and after such conviction shall not be eligible to hold any office or employment under the laws of the Commonwealth of Kentucky for a period of five years.

By Mr. Clayton.

H. B. 334. An Act to amend and reenact subsection (2) of Section 2739g-2d, Baldwin's Kentucky Statutes, relating to the counties' portion of the license tax on trucks.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That subsection (2) of Section 2739g-2d of Baldwins' 1938 Kentucky Statutes Service is amended to read as follows:

The registration fees as provided herein, the issuance of receipts, duplicates, tags, and the transfer of such receipts and tags, and the accounting for fees, and all other things required to be done in connection with the same, shall be done as, and at the time and in the manner as is now or may hereafter be provided by law. One-half of all moneys raised by this tax shall be evenly distributed among the one hundred and twenty counties, one, two hundred and fortieth (1/240) of all truck licenses going to each of the counties, for the county road funds. Said money so received by the counties shall be expended for labor performed and material furnished and services rendered in connection with the county road during the current fiscal year in which the money is paid over by the state; and any unexpended balance remaining on hand at the end of the fiscal year shall be carried over into the road fund for the next succeeding year.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall stand repealed as of the effective date of the Kentucky Revised Statutes, and the following shall take effect in lieu thereof:

One-half of all revenue raised by the tax imposed by subsections (3) to (7) of KRS 243.710 shall be evenly distributed among all the counties, for the county road funds.

The money so received by each county shall be expended for labor, materials and services in connection with the county roads during the current fiscal year in which the money is paid to the county by the state. Any unexpended balance remaining on hand at the end of the fiscal year shall be carried over into the road fund for the next succeeding fiscal year.

The provision so substituted by this section shall thereafter be treated as an amendment to KRS 47.020 rather than an amendment to § 2739g-2d(2), and KRS 186.050 shall remain in full force and effect and shall not be treated as affected by this Act.

By Mr. Walden.

H. B. 335. An Act relating to premarital physical examinations.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 1 of Chapter 151 of the Acts of 1940 is amended to read as follows:

(1) Each person making application for a marriage license shall, at any time within fifteen days prior to the application, be examined by a physician as to the existence or nonexistence of any stage of syphilis infection that is or is likely to become infectious, and shall obtain a certificate that the examination has been made. The examination must be made by a physician authorized to practice medicine in Kentucky, except that in the case of a resident of a state adjoining this state that requires a premarital examination for the presence of syphilis, or of an army camp that maintains medical service, the examination may be made by a physician authorized to practice medicine in that state or by a physician of the army medical department, and in such case

the certificate of such physician shall be accepted in lieu of the examination and certificate by a Kentucky physician.

(2) No county clerk shall issue a marriage license to any person who has failed to present and file with him either a medical certificate indicating that the examination required by this section has been made, or an order from a court of proper jurisdiction directing him to issue the marriage license.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 402.120, and shall thereafter be treated as amending KRS 402.120 rather than section one of Chapter 151 of the Acts of 1940.

Br. Mr. Walden.

H. B. 336. An Act relating to the recording of deeds, mortgages and other instruments.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 495 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

(1) All deeds, mortgages and other instruments required by law to be recorded to be effectual against purchasers without notice, or creditors, shall be recorded in the county clerk's office of the county in which the property conveyed, or the greater part thereof, is located.

(2) No county clerk or deputy county clerk shall admit to record any deed of conveyance of any interest in real property equal to or greater than a life estate, unless the deed plainly specifies and refers to the next immediate source from which the grantor derived title to the property or the interest conveyed therein.

(3) If the source of title is a deed or other recorded writing, the deed offered for record shall refer to the former

deed or writing, and give the office, book and page where recorded, and the date thereof. If the property or interest therein is obtained by inheritance or in any other way than by recorded instrument of writing, the deed offered for record shall state clearly and accurately how and from whom the title thereto was obtained by the grantor.

(4) If the title to the property or interest conveyed is obtained from two or more sources, the deed offered for record shall plainly specify and refer to each of the sources in the manner provided in subsections (2) and (3), and shall show which part of the property, or interest therein, was obtained from each of the sources.

(5) If the title to the property or interest conveyed has been acquired by the grantor under any name other than the name under which the grantor is attempting to convey title, the deed, mortgage or other instrument of writing offered for deed, mortgage or other instrument of writing offered for record shall also plainly specify and refer to the name under which the property was acquired. The county clerk or deputy county clerk shall index the instrument in the grantors index under both of said names. Unless the grantor complies with this subsection, the conveyance by the grantor shall not constitute notice to any subsequent bona fide purchaser, mortgagee or encumbrancer.

(6) No grantor shall lodge for record, and no county clerk or deputy shall receive and permit to be lodged for record, any deed that does not comply with the provisions of this section.

(7) No clerk or deputy clerk shall be liable to the fine imposed by subsection (9) because of any erroneous or false references in any such deed, nor because of the omission of a reference required by law where it does not appear on the face of such deed that the title to the property or interest conveyed was obtained from more than one source.

(8) This section does not apply to deeds made by any court commissioner, sheriff or by any officer of court in pur-

suance of his duty as such officer, nor to any deed or instrument made and acknowledged before March 20, 1928. No deed shall be invalid because it is lodged contrary to the provisions of this section.

(9) Any grantor who shall lodge for record and any county clerk who shall receive and permit to be lodged for record, any deed contrary to the provisions of this section shall be fined not less than twenty-five dollars nor more than fifty dollars for each offense. The clerk or deputy who actually files such deed for record shall be the one to incur the penalty of this section. All fines collected under this section shall go into the common school fund for this state.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, subsections (1) to (8) of section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 382.110, and shall thereafter be treated as an amendment to KRS 382.110 rather than an amendment to § 495 of Carroll's Statutes, and the number "subsection (1) of KRS 382.990" shall be substituted for "subsection (9)" in subsection (7) of section one of this Act, and subsection (9) of section one of this Act shall stand repealed, and KRS 382.990 shall remain in full force and effect and shall not be treated as affected by this Act.

By Mr. Rhoads.

H. B. 337. An Act providing for compensation of attorneys appointed to defend poor persons in criminal actions.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Each attorney appointed by a court to act as counsel for a defendant in a criminal prosecution shall be paid ten dollars out of the State Terasury for each such case in

which he acts as counsel during the trial. Each new trial shall be considered as a separate case. The court that appointed the attorney shall after the trial enter an order allowing the attorney his fee.

§ 2. The fees allowed attorneys under § 1 shall be paid out of appropriations for criminal prosecutions, by the circuit clerk, in the same manner that fees of jurors are paid. In advancing the imprest fund to circuit clerks, the Department of Finance shall direct the State Treasurer to include an amount sufficient to make the payments provided for in § 1. The circuit clerk shall be liable for amounts so advanced and shall obtain receipts and make reports on payments made the same as for jury fees.

By Mr. Bevins.

H. B. 338. An Act relating to the licensing and registration of motor vehicles.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 2739a-2 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

Before the owner or operator of a motor vehicle, other than a motor vehicle engaged in the transportation of passengers for hire operating under a certificate of convenience and necessity, may operate it or permit its operation upon a highway, the owner shall apply for registration to some county clerk in this state, on a blank furnished by the Department of Revenue through the clerk. The application shall be accompanied by a bill of sale, if the application is for registration of a new motor vehicle, or the owner's registration receipt if the motor vehicle has been registered before. After that, he shall register his motor vehicle on or before March 1 of each year. In so far as the owner is concerned,

registration with the clerk shall be considered a registration with the department.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of subsection (1) of KRS 186.020, and thereafter be treated as an amendment to subsection (1) of KRS 186.020 rather than an amendment to § 2739g-2a of Carroll's Statutes.

By Mr. Lamkin.

H. B. 339. An Act relating to taxation of insurance companies.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

*Section 1.* Section 4229 of Baldwin's 1938 Supplement to Carroll's Kentucky Statutes is amended to read as follows:

Every stock insurance company, other than life, doing business in this state shall, on or before the first day of March of each year, return to the Director of the Division of Insurance a statement under oath of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, on property or risks in this state during the preceding calendar year or since the last returns were made, including amounts received for reinsurance on Kentucky risks from unauthorized companies, and shall give the name and location of, and the amount of premiums received by each agent, whether designated as premium or otherwise, and the losses paid, and shall at the same time pay into the State Treasury a tax of two dollars upon each one hundred dollars of such amounts paid to the company, less amounts returned on cancelled policies and policies not taken.

*Section 2.* Section 762b-5 of Baldwin's 1938 Supplement to Carroll's Kentucky Statutes is amended to read as follows:

Every stock fire insurance company, other than life, doing business in this state shall pay to the Director of the Division of Insurance on or before the first day of March of each year, for the purpose of defraying the expenses authorized by Section 762b-6 to 762b-33 of Carroll's Statutes, one-half of one percent of all amounts paid to the company or its representative, whether such payments are designated as premiums or otherwise, for insurance or services incident thereto upon all property or other risks or hazards in this state during the previous calendar year. In computing such amounts there shall be deducted amounts returned on policies cancelled or not taken. All amounts so collected shall be paid into the State Treasury.

*Section 3.* Section 743a-23 of Carroll's Kentucky Statutes is amended to read as follows:

All mutual companies other than life doing business under this law shall pay into the State Treasury on or before the first day of March in each year, a tax of two percent of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto including amounts paid for membership or policy dues or fees, on property or risks in this State during the preceding calendar year, including amounts received for reinsurance on Kentucky risks from unauthorized companies and shall give the name and location of and the amounts received by each agent whether designated as premiums or otherwise, and the losses paid.

In addition to the foregoing tax mutual fire companies shall pay an annual tax as prescribed for stock fire companies by Section 2 of this Act.

In computing premiums upon which tax is to be paid there shall be deducted, in both direct and reinsurance busi-

ness, return premiums on cancelled policies and policies not taken, and dividends paid or credited to policyholders.

The provisions of this section shall not apply to domestic mutual, cooperative or assessment fire insurance companies.

*Section 4.* The legislative body of each city which is authorized to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance shall file with the Director of the Division of Insurance a copy of all ordinances and amendments thereto which impose any such license fee or tax.

Any license fee or tax imposed by a city upon any insurance company shall be based upon a percentage of the premiums received by the insurance company for insurance on persons residing or property located within the corporate limits of the city.

A life insurance company doing business within the corporate limits of a city shall be subject to the city license fee or tax only on premiums received on or by reason of new policies or new contracts of insurance written during the taxable year.

*Section 5.* If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 136.340 and shall thereafter be treated as an amendment to KRS 136.340 rather than amendment to Section 4229 of Carroll's Statutes.

*Section 6.* If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section two of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 136.360 and shall thereafter be treated as an amendment to KRS 136.360 rather than an amendment to section 762b-5 of Carroll's Statutes, and the numbers "KRS 227.010 to 227.180 and 298.240 to 298.300" shall be substituted for "Sections 762b-6–762b-33 of Carroll's Statutes" in section two of this Act.

*Section 7.* If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section three of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 136.350 and shall thereafter be treated as an amendment to KRS 136.350 rather than an amendment to section 743a-23 of Carroll's Statutes.

By Mr. Hall.

H. Res. 66. RESOLUTION authorizing Richard Cox and W. F. Masden, to sue the Commonwealth of Kentucky and Fish and Game Commission of the Commonwealth or either.

Said resolution is as follows, viz.:

WHEREAS the estate of Isaac Bernheim has purchased about 15,000 acres of mountainous land located, partly in Bullitt County and partly in Nelson County, in this Commonwealth and said land is held by said estate for the Commonwealth of Kentucky and is known as the Bernheim Foundation for the rearing and protection of wild animals and wild turkeys of all kind, and whereas the Commonwealth has, through its Fish and Game Commission, placed on said land large numbers of deer and same have been prolific and increased to a very large number, and are not confined on the above said land, but are permitted to run in large droves over land adjoining and surrounding this said 15,000 acres and destroy the crops of the farmers in the surrounding country, and said deer are by sections 1938a-16 and 1938a-17 and amendments thereto of Carroll's Kentucky Statutes, Baldwin's Revision, protected from being killed or chased by dogs.

WHEREAS, Richard Cox and W. F. Masden are farmers in the surrounding territory of the above said 15,000 acres of land and were such farmers during the years 1937, 1938, 1939, 1940 and 1941 and during the above said years the deer

as above said have gone upon the land cultivated by Richard Cox and destroyed his crops and damaged him in the sum of $3,360.00 and have gone upon the land cultivated by W. F. Masden during said years and destroyed his crops and damaged him in the sum of $2,100.00.

NOW, in order that Richard Cox and W. F. Masden and each of them may have their "Day in Court" to determine by judicial action the extent of damages, if any, sustained by them, and the liability therefor.

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

1. That Richard Cox and W. F. Masden, and each of them, in their own right and name, be and they are respectively and severally authorized to sue the Commonwealth of Kentucky, and the State Game and Fish Commission, or either for the purpose of determining the liability of the Commonwealth of Kentucky, and the State Game and Fish Commission, or either for such damages sustained, if any there be. If any judgment in either action is recovered by Richard Cox or W. F. Masden, or either of them, or same are compromised or settled, same shall be paid by the Department of Finance by warrant drawn on the State Treasurer and paid out of the general fund.

2. Either party to any suit may appeal from any judgment which may be entered therein as in other civil suits and the case may be settled and adjusted with and by the consent and approval of the Attorney General of Kentucky in the same way as any other civil suit.

3. Said action may be brought in Bullitt County, the county where the damage was done, in the Circuit court of said county. The limit of liability as to Richard Cox is $3,360.00 (three thousand three hundred and sixty dollars); as to W. F. Masden is $2,100.00 (two thousand one hundred dollars).

By Mr. Tyra.

H. Res. 67. JOINT RESOLUTION requiring the Commissioner of Highways to make reports.

Said resolution is as follows, viz.:

WHEREAS, many of the Counties of Kentucky are in debt and need money to meet their debts and obligations, and,

WHEREAS, many of said Counties have advanced to the State of Kentucky, money for the purpose of construction and reconstruction of many roads in the State.

*Therefore be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the Commissioner of Highways of Kentucky immediately furnish the General Assembly with the following information: The several amounts of money advanced by each and every County to the State for construction or reconstruction of roads located on the State primary system and inter-county seat roads from March 1914 to July 1, 1920, and from July 1, 1920 to July 1, 1941, including all so-called "3 for 1" agreements.

Section 2. The amount of money collected from July 1, 1920 to and including July 1, 1941, from the two cents increase in gasoline tax voted in the year 1926 for the purpose of reimbursing each and every county in accordance with § 4356t-11 Kentucky Statutes, (Chapter 17 §11, Acts of 1920) which reads as follows:

"The State shall not be required to maintain any of the primary roads herein designated until such road has first been constructed by the State as herein provided; or until such road has been accepted by the State as meeting the requirements of a state road, in the construction of the system of roads as herein provided, the State shall be considered as having accepted a road when it becomes a necessary part of any road building out from any of the points designated herein and thereafter it shall be the duty of the State to maintain such road. If the county desires to construct any

part of any primary road before the state may construct same under the plan and system herein designated, such county shall make request of the State Highway Commission so to do. When such request is made the State Highway Commission shall immediately investigate such request, and if they find that the county has funds available to construct any part of such road and will pay for the construction thereof. The State Highway Commission may take up immediately the construction of such road, but they shall not do so until the county has taken such steps as they may require to make available, subject to their order, sufficient funds to pay for the construction of such road. When the county has satisfied these requirements the State Highway Commission may proceed to construct such road in the same manner and way under the same regulations that they construct other roads as herein provided. *They shall keep careful account of the money thus advanced by the county to the state, and when the project of which the road is a part shall have been completed, the state shall refund to the county the full amount of money thus advanced upon proper certification of the State Highway Commission."*

Therefore be it also resolved: That the Commissioner of Highways of Kentucky ascertain and certify the amount due each and every County of the State plus interest to the Commissioner of Finance of Kentucky for payment as the above law directs.

Ordered that said bills and resolutions be printed and referred

To Committee on Rules.

Mr. Henry Ward moved that the House do now adjourn to meet again on Wednesday, February 18 at one o'clock P. M.

Said motion was agreed to.

And then the House adjourned.

WEDNESDAY, FEBRUARY 18, 1942

The House was called to order by The Honorable Stanley S. Dickson, Speaker.

The House was opened with prayer by the Reverend Fred S. Moffatt of the First Baptist Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

C. W. Anderson, Jr.
George P. Anderson
Henry Arrowood
Robert E. Barry
W. T. Beard
Douglas T. Bolling
H. M. Brock, Jr.
Sherman E. Carter
C. L. Clayton
T. Fowler Combs
Oris Cooper
M. A. Cornett
John Henry Cox
Rev. W. W. Crouch
Guthrie F. Crowe
Pink G. Curd
Forest C. Easley
Harry W. Ennis
John D. Fields
T. P. Fitzpatrick
W. W. Freeman
Joseph J. Grace
P. Bert Hall
A. G. Hamilton, Jr.
Fuller Harding
Joe Higgins
E. R. Hilton
Clyde S. Howard
Jerry F. Howell
Chas. O. Humston
W. H. Hunt
Joe B. Jarboe, Jr.
Crow Jarvis
William L. Jones
John S. Juett
W. A. Lamkin
H. W. Linville
A. L. Love
Harry K. Lowman
Hugh D. Lyon
H. McCartney
Norris McPherson
Dr. Wm. C. Mann
Ed. Marcum
C. C. May
J. Milton Mefford
Sam Milam
D. J. Moore
J. Lee Moore
L. D. Moore
C. E. Montgomery
E. R. Morlidge
C. Sid Nabb
Coy Nevitt
Robert Nicholas
H. C. Patterson
Paul Pelfrey
B. W. Porter
Kleber F. Price
James E. Quill
L. Allen Rhoads
Dr. J. J. Rice
Wade H. Riley
Dr. M. M. Robinson
Byron H. Royster
Dr. K. N. Salyer
Carl Scheben
Leon J. Shaikun
Faust Y. Simpson
Clyde Smith
Otto Smither
Charles L. Spilman
J. Claude Stacy
R. C. Stephenson
Thomas M. Swope
C. W. Taylor
Egbert Taylor
Roy L. Taylor
Rev. H. Tinsley
Erna E. Tyra
S. J. Wagner
C. R. Walden
Harry Walters
H. A. Ward
Henry Ward
H. L. Waterfield
Stanley S. Dickson, Speaker

Mr. Waterfield moved that a leave of absence be granted to Mr. Morancy.

Said motion was agreed to.

Mr. Scheben moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

The Speaker read the following communication from the Governor, viz.:

February 17, 1942

Speaker Dickson and Members of the Kentucky State House of Representatives:

Last September I appointed a committee to conduct an investigation of the Division of Purchases.

The Committee has completed its work and submitted its report. A copy of that report is herewith transmitted to the House of Representatives for its information. I have requested the Chairman of the committee, Judge Dietzman, to prepare a bill which will embody the legislative suggestions of the Committee. It is anticipated that this bill will shortly be ready for your consideration.

Respectfully submitted,

KEEN JOHNSON, Governor.

Said report is as follows, viz.:

His Excellency, Keen Johnson
Governor of the Commonwealth of Kentucky

Sir:

By Executive Order, under date of September 3, 1941, you appointed the undersigned as a Committee with the following duties prescribed in the order of the appointment:

"(A) To ascertain and report whether or not there has been any waste, faulty or inadequate system or systems or

practices permitted to be maintained or practiced in conducting the business of said Division of Purchases.

"(B) To ascertain and report whether or not there has been any negligence, dishonesty, inefficiency or practices performed or permitted in said Division by any of its officers or employees which have been or are in violation of any of the laws relating to purchases for the Commonwealth of Kentucky.

"(C) To ascertain and report whether or not purchases for the Commonwealth and all of its various departments and institutions and agencies thereof have been made upon the basis of sound purchasing principles and practices, and whether or not, quality and workmanship considered, the prices which have been paid have been fair and reasonable and to the best interests of the Commonwealth.

"(D) To ascertain and report whether or not the system of records, preparation of specifications, bookkeeping and accounting, budgeting and of inviting, receiving and opening bids and awarding contracts for purchases have been and are properly maintained and conducted in accordance with the provisions of the laws relating thereto."

Pursuant to this order of appointment, your Committee organized and thereafter conducted the investigation requested by open hearings and by investigation of the records of the Purchasing Department, as will be more fully hereinafter detailed.

At the outset of this report the Committee wishes to express its thanks to the Division of Purchases and its personnel, to the Attorney General and his staff, to representatives of the Press and to all others who very kindly and unselfishly appeared before the committee with such assistance and information as they thought pertinent to the inquiry.

It was and is the thought of the Committee, and it so interpreted its commission, that it was appointed to ascertain if there were any faults in the practices of the Division of Purchases which worked to the detriment of the Common-

wealth, giving to the word "faults" not only the narrow meaning usually attached to it, but also a wider scope by including therein negligent and dishonest practices.

Your Committee may at once clear the atmosphere by saying that it found no evidence of any dishonesty on the part of any member of the Division of Purchases, despite the rumors to the contrary, none of which were substantiated by the evidence before the Committee. However the Committee did find evidence of inefficiency, negligence and favoritism as we shall more fully discuss hereinafter.

We take it that, for the benefit of those who may not be familiar with the law and the set-up of the Division of Purchases, it will not be amiss at this point to state briefly the controlling statutory provisions governing the Division of Purchases and the system heretofore adopted by that Division for the conduct of its business and affairs. By statute, the Division of Purchases and Public Properties (hereinafter called, for convenience, the Division of Purchases or simply Division) is under the direction of the Commissioner of Finance and, in general, purchases supplies, material and equipment for the *combined* (italics ours) requirements of all the spending agencies of the State. It likewise, in general, has supervision of all purchases by the various spending agencies and is given authority to prescribe rules to govern purchasing by or for all such agencies, subject to the approval of the Commissioner of Finance. This last sentence is not a repetition of the one immediately preceding it as will shortly be seen when we come to consider the right of spending agencies to make what is called "Emergency Purchases." The Division further is required to maintain perpetual inventories of plant and equipment and has the power to transfer between departments, to salvage, to exchange and to condemn supplies and equipment. It is made the duty of the Division to fix standards of quality and quantity and to develop standard specifications in consultation with the several spending agencies of the State. It is also the duty of the Division to main-

tain records of supplies for various classes of purchases, unit costs under contracts, trends of prices and costs and other matters incident to the performance of its functions.

It is authorized to maintain a controlled supply service, including control storeroom for stationery and office supplies and to provide such duplicating and minor printing services to the other agencies of the State as can practicably and economically be rendered by means of available types of office equipment.

We omit the category of duties pertaining to Public Buildings as such do not come within the scope of our inquiry.

Pursuant to the authority thus granted, the Division which was created under the Re-organization Act of 1936, after study and inquiry and advice of national experts, adopted, with the approval of the Commisisoner of Finance, a Purchasing Manual, which, on the whole, is admirably constituted to govern the activities of the Division.

Again, for the benefit of those not familiar with the procedure of the Division or the terms of such procedure we state briefly and summarily that procedure and define some of those terms. This can best be done in concrete fashion.

A department of the State, say the Welfare Department, will estimate its needs for certain materials and supplies over a certain period of time in the future. For instance, under prevailing practices its needs for staple food supplies for the various institutions under the control of the Welfare Department are estimated for a period of three months, while that for clothing is estimated for a period of six months. These needs so determined are then set up on requisition blanks, and, when completed, the requisitions are sent to the Division of Purchases. These requisitions itemize the needs, not only as to what is required but also to which institution under the Welfare Department all or any part of such needs are to be delivered. On receipt of these requisitions, the Division prepares invitations to bidders which are mailed out to a list of vendors maintained by the Division of Purchases.

There is a statute which provides that any one who wishes to sell to the State may register with the Secretary of State his name and the character of materials or supplies for which he wishes to receive invitations to bid and, when this is done, it is the mandatory duty of the Division of Purchases to send to such registered party invitations to bid within the scope of the character of supplies and materials such vendor wishes to sell. This statute seems to be unknown to even the most experienced vendor of supplies to the State, and, although its purpose is good, it should be amended so as to authorize such registration with the Division of Purchases rather than the Secretary of State.

The invitations to bid require that the bids shall be sealed bids, prepared by typewriter or in pen and ink and filed with the Division by a time certain, with a notation on the enevelope showing the number assigned by the Division to the invitation. Despite the undoubted wisdom of the requirement that bids must be typewritten or written with pen and ink, our investigation disclosed that in some instances bids prepared with pencil were submitted. This is a practice that should not be allowed by the Division. On receipt of the sealed bids, a notation of the time of such receipt is made by the Division on the outside of the envelope containing the bid, although this has not been done in every instance. On the expiration of the time fixed for the receipt of bids, they are opened and tabulated on what is called a tabulating sheet. Such is the procedure prescribed by the Purchasing Manual. As we shall hereafter point out, there is a reason for this seemingly qualifying statement. Where clothing and food, at least, are involved, samples are in most instances required to be furnished along with the bids.

After these bids have been tabulated and where samples have been furnished, a member of the Division of Purchases along with, in some instances, a representative of the institution and/or department involved will inspect the samples, and thereafter the Division will let the contracts to the vendor

or vendors who have, in the judgment of the Division, the lowest and best bid and, in most instances, in accordance with the request of the representative of the institution involved as to the article to be purchased.

It may be noted that the statute does not require nor do the contracts always go to the lowest bid. The statute only requires the lowest and best bid to be the successful one, and, where the bid accepted is not the lowest, the Division claims that despite that fact it was the best bid.

After the bid has been awarded, the Division makes out what is called "Award of Contract", which, after having been submitted to the Division of Accounts and Control of the Department of Finance for certification that there are funds on hand of the Department involved available to pay the amount of the contract, is then sent to the successful vendor. The vendor fills the contract by shipment to the Department or institution thereof involved of the materials and supplies called for by the Award of Contract. Such shipment is received by the Recieving Clerk of such Department or institution who is an employee of that Department or institution, and to whom a copy of the "Award of Contract" has been furnished. It is the duty of this Receiving Clerk to ascertain if the materials and supplies furnished meet in quantity and quality the provisions of the "Award of Contract." If he is of opinion that they do, he so certifies that fact to the Division of Accounts and Control, which pays the bill. If he is of the contrary opinion, he certifies the facts to the Division of Purchases, whose duty it then is to make the necessary adjustments or corrections.

It will be noted from this resume, brief as it is, that the activity of the Division of Purchases, as above outlined, does not begin until it receives a requisition from the Department requesting a purchase. All of the various departments of the State admittedly have problems of their own, especially problems of finance. In not a few instances, and notably in the Department of Welfare, requests of institutional heads for

various materials and supplies have been held up by such Department, because, in the exercise of the discretion confided to it, the Department felt, in view of its budget, such requests could be wisely postponed for the time being. We most emphatically state that the foregoing is not meant to be taken in the light of any criticism of the Department of Welfare or any other Department, for, as your Committee too well knows, such Departments have problems of their own, and we know that they must, in view of budgetary restrictions, exercise, as they have done, the discretion committed to them, as above stated. The only reason for referring to this matter at this point is because the Purchasing Division has been subject to some criticism, especially in the matter of the Greendale investigation, for charged delay in acting on requisitions from other Departments. However, from our investigation we believe that the Division of Purchases has acted with reasonable promptness on receipts of requisitions. The matter of tires will be discussed hereafter. Where delay has occurred, it is because the Department, whose institutional head has requested a purchase, has not at once forwarded the requisition to the Division.

To illustrate, the delay of two years, referred to in the Greendale report, between the request of the Superintendent of Greendale and its fulfillment refers to a request for a typewriter, which, as we understand it, the Department of Public Welfare felt could be postponed for the time being in view of the condition of its budget, for which reason it did not send the Division a requisition therefor during the interval of the claimed delay. There was no delay on the part of the Division of Purchases in making the purchase on receipt of the requisition. The superintendent further stated that his only complaint with the Purchasing Division was with the purchase of paint and basket balls which was apparently satisfactorily explained and the shoes furnished by one vendor to

the Institution were returned to the vendor and better merchandise substituted.

We now consider the procedure known as the "Purchase Order."

Materials and supplies not periodically required, such as food and clothing are, are purchased for State Departments from time to time as requisitioned by those Departments. When a requisition for such materials and supplies is received by the Division of Purchases, such requisitions may fall in a class where sealed bids had theretofore been taken with the vendor agreeing to furnish over a certain period of time, or until he notifies the Division of Purchases to the contrary, the articles called for at the price set forth in the bid. Mimeograph paper may be used as an illustration. On the other hand, the article called for by the requisition may not fall within the aforesaid category. It may be in such a small quantity as not to justify the clerical and other expense involved in calling for sealed bids but is of the character for which there is a well known market price information as to which the Division undertakes to keep on what is called "A commodity price list."

The article called for however may be in such quantity or value as to justify the taking of sealed bids. While in this last case the purchase ought perhaps to fall technically under the heading of "Award of Contract" discussed above, the "Purchase Order" form is very frequently used.

In the cases where sealed bids are not taken an order is sent by the Division to the vendor who has agreed to furnish such article at a fixed price over a certain period of time or where there is no such agreement the order is sent to a vendor selected by the Division of Purchases after such vendor has stated on inquiry the price at which he will furnish the article providing at least in theory that such price conforms to that disclosed by the commodity price list. Of course no Purchase Order is sent out until the Division of Accounts and Control

has certified, as in the case of the Award of Contract, that the money is available for the purchase involved.

Lastly, there is what is called the "Confirming Order", concerning which there was much testimony of a critical nature. As to purchases under $300.00, the various institutions and departments are authorized in cases of emergency to make the purchase directly from the vendor without the prior intervention of the Division of Purchases, and without the use of sealed bids or commodity price lists. When such a purchase is made by a Department or an instituion, "An Advice" of such emergency purchase is sent to the Division of Purchases, and the latter makes out what is called the "Confirming Order", which too goes through the process of having the Division of Accounts and Control certify that the money to pay it is available. It is then paid in due course. The Division of Purchases too is authorized to make such purchases for Departments including itself where the amount involved is small or when a real emergency is created, as was the case when the boiler in the Old Capitol Building went to pieces in the middle of the night and in the dead of Winter. We shall refer later on in more detail concerning these Confirming Orders, for much is to be said about them.

As stated, the Division of Purchases is under the Commissioner of Finance. Under his supervision is not only this particular Division of Purchases and Properties but also the Division of Accounts and Control and Division of Personnel. It is very obvious that the Commissioner of Finance cannot possibly, nor is he expected to, attend to all of the details of the various Divisions under his general supervision. Of course, when any matter affecting any one of his divisions is called to his attention, it is his duty to investigate the same. So far as the Division of Purchases is concerned, there is reported daily to the Commissioner of Finance on a form prepared for that purpose the various awards of contracts and purchases made by the Division. The Commissioner has

testified, and we find no proof to the contrary, that in any important case where the award has not been made to the lowest bidder, he has made inquiry as to the cause, and has satisfied himself that the award was properly within the sound discretion of the Division. In some instances the Commissioner of Finance has over-ridden the Division, and, as he frankly testified, not always happily, as where he insisted, because of a rather large difference in bids between the lowest and the one which the Division thought should receive the contract, that the bid be given to the lowest bidder. It turned out that the lowest bidder was compelled to fill the contract for removable partitions in the new office building only after considerable negotiations and much loss of time.

Necessarily, the head of any business must rely in large measure upon the division heads under him. All who testified in thhis case have testified to the inegrity, high character and honesty of purpose of the head of the Division, in view of which we believe that the Commissioner of Finance had a right to rely upon the information he received from him. The Commissioner, however, went further and made investigations as to certain complaints. We believe he exercised due diligence in the effort to keep himself informed as to what was transpiring.

Your Committee wishes to say that from the investigation which it has made it is thoroughly satisfied that centralized purchasing is wise. Centralized purchasing is now generally accepted as one of the earmarks of a modern economical and efficient administration in all forms of government. Its widespread adoption and practice in the majority of states and in hundred of cities and counties offers conclusive proof that it has inherent advantages. Some of the advantages of centralized purchasing may be summarized as follows:

1. Lower unit cost of commodities.

2. Reduction in the overhead cost of buying through reduction in personnel.

3. Reduction in the volume of paper work.

4. Standardization of specifications.

5. Centralized supervision over inspection of deliveries, storage and distribution of stock, and inter-departmental transfers.

6. Closer accounting control over expenditures.

7. Saving in discount through prompt payment of invoices.

8. Employment of a full time purchasing staff.

9. Simplification of the vendors' problem through solicitation of business from one purchasing office rather than from a number of purchasing offices.

A comparison of cost to the Commonwealth of purchases since centralized purchasing has been in vogue with that prevailing prior thereto thoroughly substantiates the claims of benefits arising from such purchasing, and, even if perfection has not been attained or faults in execution exist, the system has more than established its worth.

Discussing generally before specifically the matters which Your Committee did find to criticize in the procedure and practices of the Division of Purchases, we refer again to the statutory requirement that the Division should fix standards of quality and quantity and develop standard specifications in consultation with the several spending agencies of the State. We find an almost total lack of what Your Committee regards as a proper compliance, not only with this statutory requirement but also with reasonable purchasing practices. We are not unaware that the Division insists that it does have such specifications, but Your Committee must firmly disagree with the Division in this connection. The Division thinks, for illustration, that when it calls for bids on "Men's Work Shoes", requiring a sample to be furnished, that the foregoing description coupled with the sample is a sufficient specification. The obvious answer to this is that when one shoe company, admitted a nationally known manufacturer of

high reputation, offers fourteen different classes of shoes, running in price from around $1.58 to almost $3.00, as fitting this call, the specification is not what should be called "an adequate specification," and this too, even though samples are called for to accompany the bid.

It must not be forgotten that purchases by the Commonwealth are for consumption and not re-sale, and, that although the judgment of him who examines the sample may be founded on years of experience in the wholesale and retail business, yet after all such experience is based on what has been found to be good purchases for re-sale at a profit and not necessarily on what is the best for consumption. A woman's shoe of particular style may be an excellent seller despite the lack of lasting wearing qualities. The absence of specific specifications renders competitive bidding in the judgment of Your Committee and as competitive bidding is understood by Your Committee almost impossible.

Let us take another illustration, of what may seem to be a minor matter, yet is symptomatic of the whole situation. In one of the invitations for bids for clothing examined by Your Committee there was a request for bids on "marquisette." One of the members of the Committee was intrigued by the request for bids for marquisette, not knowing exactly what such material was and wondered why the institution involved called for it. On inquiry from a feminine member of his household he ascertained not only in a general way what marquisette was but also that there were several varieties of marquisette, not only in the character of the thread involved, that is to say whether cotton or silk, but also in the number of threads involved, whether three or four and perhaps more. Now, it is to the Committee very obvious that there is no real specification nor any real competitive bidding when all that is called for is marquisette, for one bidder may be bidding on cotton and the other silk, and, if the award is given to the silk, accompanied by the statement, "Account of

quality," which is indeed a true statement, yet, after all, the cotton man never bid on the silk, and it is impossible after the event to determine whether had he bid on the slik or been requested to bid on the silk the one who got the contract would have been the lowest and best bid. To take another illustration, we find time after time invitations to be on "denim". When inquiry was made as to why a high bid got the award, we were informed that it was because the successful bid covered the best material in that it was sanforized. Yet, in all invitation to bid, nothing was said about submitting bids on sanforized material and material not sanforized.

This brings us to what was given very wide publicity in the hearings, to-wit, the soap and disinfectant controversy. On the one hand, testimony was adduced which tended to establish the fact that costs of soaps competitive with the soap bought as well as that of disinfectants competitive with the disinfectant bought was very much less, indeed, than the cost of the soaps and disinfectants so bought. On the other hand, testimony was produced to the effect that the heads of institutions that used soaps and disinfectants preferred those which were bought over the lowest cost competitive soaps, claiming that the soaps and disinfectants bought did a much better and more satisfactory job than the competitive soaps did. As the Committee views the matter, the whole fault, if one there be, lies in the lact of specifications for the soap and disinfectants needed. While it is true that the name of a soap or of a disinfectant may be protected by trade mark, and, while it may be true that the process of making soap may be protected by a patent, yet there is no patent protecting the use of ingredients which go into the making of any particular soap.

There is no mystery in the making of soap, and Your Committee was easily able to ascertain the ingredients of the soap and disinfectants which had been bought by the Division of Purchases, the analysis of which did not materially differ

from the analysis later furnished by the vendor of these articles. In the opinion of your Committee the invitations to bid for soap and disinfectants should not have been simply for "Lusterite" as that is no specification at all, but should have stated the ingredients of a soap or disinfectant which the Division wished to buy and then called for bids for that article. It would have then been determined whether the article which the Department and institutional heads thought best for their use could or would be furnished by any other manufacturer of soap or disinfectants at a price less than that which the Division purchased it for from the vendor of "Lusterite" and of the other disinfectants. We are not unmindful that the Division in calling for bids in these cases prescribed "Lusterite or equal", but that is hardly in the opinion of Your Committee an adequate specification, for the word "equal" may mean soap of different ingredients but able to do the work which the heads of the institutions thought "Lusterite" would do. The article desired was one composed of the ingredients which the heads of the Departments and institutions thought did the work best, and the real question involved was who would make such an article at the lowest price. No effort seems to have been made to solve this question.

Coal will furnish another illustration of the presnt discussion. In requesting bids for coal prior to the present Bituminous Coal Act the Division would simply call for a coal by seam name or by size of coal such as nut or slack and without specifying B. T. U. or other composition. Epecially in Western Kentucky, the coal is not of all the same sulphur content, and, although bearing maybe the same seam name, the coal is not always of equivalent quality. The specifications, in Your Committee's judgment, should have set out the character of the coal desired with limitations of tolerance, and we would then have had bidding which was really competitive.

On the other hand, although the specification practice was not much better than that illustrated above, yet standard practices in the field of groceries and food served in large measure to correct the lack of adequate specifications. Because of the Food and Drug Act, the packaging of food has become fairly standardized, so that when a No. 1 can of corn is called for, all know the character of corn which is wanted. Further, competitive practices among the vendors of food have pretty well standardized the specifications of food. It follows that when an institution, because of budgetary requirements, wanted No. 7 Rio coffee, that was what it got, whether No. 7 Rio coffee be, as coffee goes, a very good grade of coffee or not.

Of course, the lack of adequate specifications affords the opportunity to vendors to offer different grades and qualities of goods which yet fall within the general specification set out in the invitation to bid and thus opens the field of criticism of favoritism on the part of the Purchasing Division when it makes its choice of article and bid. It must be conceded that the Division has a discretion in the choice it makes, but it is impossible after the event to determine whether, with such a lack of specific specifications as has been the case, the Division abused the discretion confided in it. Again, in failing to develop standard specifications, in consultation with several spending agencies of the State, the Division, in its effort to satisfy the wish of each spending agency, has laid itself open to criticism of selecting one quality of goods for one institution at the request of its dietitian or Receiving Clerk who happened to be present at the opening of bids and inspection of samples, while a different character for other institutions who had no representative present save perhaps the head of the Department of which the institution was a part. In such state of case there cannot of course, be such quantity buying as was thought would accomplish the maximum saving of price to the Commonwealth.

Undoubtedly, in the opinion of Your Committee, there should from time to time be conferences with the several spending agencies of the State to the end that standard specifications may be evolved, and, while the Division laudably endeavors to comply with the wishes of the several spending agencies as to materials and supplies to be bought, yet the final decision must rest somewhere, and, of course, that is with the Division of Purchases.

The Division in its testimony claims that to comply with the statutory requirement of setting up standard specifications in a manner felt desirable by Your Committee would cost the Commonwealth a very large sum of money in the employment of a specification writer. The Federal Government has prepared and made available at a very minute cost, specifications for substantially all, if not all, of the purchases made by the Division of Purchases. As a matter of fact, the Division of Purchases admits that it has on file a copy of all of these Federal specifications but says that it would "take a Philadelphia lawyer" to understand many of them. Even though this be true, most of them are easily understandable, and, if they are good enough for the Federal Government, surely, in the absence of something better by the State, they should be good enough for the State. Further, correspondence with purchasing divisions of other states and even large municipalities undoubtedly would produce, without the great cost that a specification writer might entail, the needed specifications for our Division of Purchases. Some of the larger municipalities have populations almost as large as that of our entire State. Some municipalities, notably Cincinnati, have most adequate and complete specifications, and we do not believe that the Division of Purchases would have much difficulty in adequately fulfilling not only the statutory requirement but also proper purchasing practices as to the development and fixing of standard specifications for the articles it purchases.

The next matter to which we wish to refer is the narrowness of the list of vendors to whom invitations to bid are sent and, especially, to whom purchase orders are given. For instance, in the case of soaps and disinfectants invitations were sent to three apparent bidders who were in reality but one although bearing differing corporate or trade names. In some fields this is more apparent than in others. On the whole, in the food field the list of potential bidders seems adequate. We must not forget that in case of foods only the staple products can be purchased on long term bids, for the daily requirements of fresh fruits and vegetables have to be made at the current price and necessarily from vendors whose locations are such that deliveries can be conveniently made at not too great a cost.

In the matter of clothing, on the whole the list of vendors to whom invitations to bid were sent was not as large as it should have been, which, coupled with the lack of specifications above noted, leads to the criticism of at least prima facie favoritism being given to certain vendors. Even where the list of potential bidders was somewhat more ample, as in the case of shoes, it was puzzling to Your Committee to understand why the quality of shoes requested was on award split among different vendors, especially so when in certain instances the discount allowable on quantity purchases by one vendor would have made the cost of each pair of shoes so purchased, less than other shoes bought from another vendor at the same time on the same specification, even if it be conceded, which Your Committee does not, that the quality of these other shoes equaled that of the shoes offered at a discount in quantity lots. To the criticism that the State in purchasing shoes from a retailer, instead of from a manufacturer thereof, or at least inviting bids therefrom, as was the case in certain instances, it being implied in the criticism that had the manufacturer been invited to bid, the retailer's profit would have been saved, Your Committee believes that any

basis for such criticism can easily be obviated by the adoption of adequate specifications and the maintenance of an ample and adequate supply of bidders, because under such conditions competitive principles will insure a price best for the State, for the article—shoes, drugs or otherwise which the State wishes to purchase.

In some fields, notably the tire field, the invitations to bid were sent to a most representative group. In some instances the nature of the purchase requested restricted the field to which invitations could be sent. To illustrate, if repair parts were needed, say for a Westinghouse machine already bought and in use at some institution, the bidders, of course, were limited to those who could furnish such a repair part. The narrowness of the field of bidders is especially notable in purchase orders not based on commodity prices, and this cannot be explained away by the claim that in a great many instances the general distributor of the article in question was invited to bid along with selling agents, who, as inquiry would soon have developed, bought from such distributor at prices fixed by the manufacturer. If it were not already known, inquiry would soon have developed that the manufacturer fixed the prices at which his distributor could sell directly to the consumer and the price at which he could sell to selling agent, which in most instances was and is less than the distributor could sell directly to the consumer. The selling agent, knowing of this differential, could, as the proof in this case discloses he did, bid a few cents less than the distributor and so secure the business, even at a profit. By confining the bid to the distributor and selling agents, lack of competition, of course, develops. While it is true the manufacturer of many lines will not bid in competition with his distributor, yet bidding should have been requested from distributors of competitive manufacturers. In this respect the Committee notes that the field of bidders was much widened during the course of this investigation and the aforesaid

thought of the Committee, then unexpressed, was followed. The Committee freely concedes that in many instances the criticized purchases were of fairly small amounts and required the services of some one to assemble from different sources the goods requested. It must not be forgotten that the clerical expense involved is by no means of minor importance in the sending out of requests for bids, the making up of the tabulation sheets and the awarding of contracts, and, although it does seem strange why in an order for electrical and plumbing supplies there should also be included an award for chinaware, yet when analyzed it will be observed that there was involved in this order an assembling of minor purchases, although the order on the whole was substantial. While, perhaps, the Committee, had it done the purchasing, might have seperated the chinaware, yet this was a matter of judgment, and it is easier to criticize judgment after the event than it is to exercise it at the time when exercise is called for. In this connection we feel that the Division of Purchases might urge upon the other Departments cooperation in estimating their needs over substantial periods for many staple articles, such as stationery, office supplies and the like, to the end that small purchases from time to time in these fields may be eliminated.

It is true that the statute under which the Division operates authorizes the maintenance of a supply service, including a controlled storeroom for stationery and office supplies, but the Legislature has never made any appropriation to the Purchasing Division for this purpose. It might be wise if an appropriation were made to the Purchasing Division to initiate such a supply room, which appropriation would be sort of a revolving fund to be replenished when once expended by charges against the budget funds of any department served by the central stockroom. It must be conceded, however, that the problem is not quite so simple as thus stated, for the Purchasing Division makes purchases for at least eighteen

different institutions scattered all the way from the Big Sandy to the Purchase, and the matter of transportation charges and clerical help is to be considered as against local purchases for smaller items of these supplies.

Sound purchasing procedure presupposes real competitive bidding. Every effort should be made to obtain this character of bidding. Those in charge of the Division should intensify their efforts to interest responsible and reliable vendors to submit bids on commodities required by the State departments and institutions. On the other hand, irresponsible and unreliable vendors should not be permitted to bid. In the interest of economy in postage and clerical services, if vendors should not avail themselves of the opportunity to bid after having been sent invitations for a fixed number of occasions, they should receive notice that their names are to be stricken from the list of persons to receive invitations, and vendors should also be required to advise the Division if they do not desire to continue receiving invitations. Such a procedure would save postage and effort in mailing invitations.

Favoritism may consist in picking out certain vendors only to whom requests for bids are sent, or it may consist in awarding business to certain favorites where we have the situation of identical bids. Those in charge of the Purchasing Division make no concealment of the fact that where they have identical bids or where they claim other conditions are equal they favor the friends of the administration. We suppose this is a condition that prevails in private as well as public affairs, although it has been urged that where public affairs are concerned one should not follow the principle of favoring ones friends. Concededly, cogent argument can be advanced in support of this proposition, although, if followed to its logical conclusion, it would not be long before one could trade with everybody.

Your Committee did not go extensively into the matter of contributions to campaign funds. Inquiry was addressed

to every witness who appeared, and, in only one or two instances did the witness admit that contributions had been made. One of these witnesses was a party committeeman in Louisville, who frankly stated that he made contributions to his local campaign. Another witness testified to a certain campaign contribution, which he admitted was made from mixed motives but with no promise on the part of the Division that because of it any business would be accorded him. Although he did secure business, he agreed that it was let to him because his bid was the lowest and admitted that the contribution was made after the bid had been accepted. It is to be regretted that any solicitation of campaign funds should be made by letter or otherwise from those who sell goods to the State. However, the list of vendors is a matter of public property available not only in the office of the Division of Purchases but in a more concrete form in the report of the Auditor covering the Division of Purchases, and, if any party committee or solicitor wishes to avail itself or himself of this list, the Committee knows of no way that the Division of Purchases can prevent it. The Division of Purchases was emphatic that their orders from the Commissioner of Finance were not to consider party contributions in a matter of awarding of bids and that it had conducted its affairs in strict compliance with these orders.

Your Committee inspected what reports of campaign contributions were available in the office of the Secretary of State covering the period included in this report. They afforded nothing tangible upon which the Committee can rest any finding of fact. The Committee, as a matter of common sense, knows that all political campaigns require funds for legitimate matters such as advertising, radio time, postage, clerical help at headquarters, rent and other items, such as the necessary expense of automobiles and workers in getting out the vote on election day, and that these funds must be collected from those who are friends of the particular party

to which the contribution is made. Some contributions are made from motives solely because the contributor is interested in his party; others from motives of securing public office and still others from the mixed motives testified to by the witness to whom reference has been made, yet all the Division of Purchases can do under these common facts of every-day life is to adopt a policy of not letting the matter of contributions enter into the determination of the awards of contracts.

In the matter of tabulation of bids Your Committee found much to be remedied. Where bids are of an involved nature, the tabulating sheets now in use are not adequate to set forth clearly what bids are, and too often on the tabulating sheets will be found only the notation "See bid." Of course, in some measure this is due to lack of adequate specifications so that under the call for an item, (again to use men's shoes) fourteen different bids may be made by one vendor. Bids should be opened and time-stamped before being tabulated to the end that if the tabulation goes over until the next day, as so often necessarily happens, the bids will not appear to have been received on different dates. Although it is true all of the envelopes containing bids have the time stamped upon them, when, as and if received, this has not been true of the contents of the envelopes, and this should be remedied as aforesaid. There should be left upon the tabulating sheets space for the entry of such notations as may be necessary to indicate why, in the event the award does not go to the lowest bidder, the higher bid used is considered the better one. The testimony indicates that in many instances where higher bids have been the successful ones it was due to the fact that the head of the Department or institution for whom the buying is done insisted on a particular article embraced in the higher bid and the wish of the Department head or institutional representative was acceded to. However, the only notation, if any appearing on the tabulating sheet was "Ac-

count of quality.'' In same of the cafeterias of the normal schools and in that of the State University the students who purchased food therein wanted a better, though not more wholesome, grade of food than that furnished say to the penal institutions. So a better grade of canned goods, coffee, meat, etc. is bought for such schools than for the penal institutions. Inasmuch as the students pay the cafeterias for the food thus bought, no loss is sustained by the State. Yet nowhere on the tabulating sheet appears an adequte explanation of this practice. In the opening of the grocery bids last October Your Committee attended the inspection of samples and awarding of bids. One bid comprising certain items was the lowest bid, but carried by a separate letter the proviso that delivery must be completed in forty-five days. The invitations had called for bids providing for a delivery over a period of ninety days as needed from time to time by the respective interested institutions. Presumably, all the other bids had been made on the basis of this ninety day delivery. Ordinarily, time would not have been so material as it is at present, but, with the uncertainties of the market as they were in October and now are, delivery dates were of very material importance. The Purchasing Division did not consider the forty-five day bid because not a real competitive bid against the ninety day delivery bids. Ordinarily, there would have been no notation on the tabulating sheet to indicate why the Purchasing Division acted as it did. This again illustrates the need of adequate space for notations and adequate annotating. The bids and the tabulating sheets, with the necessary information thereon, as herein outlined, should be preserved for a longer period of time than they are. We admit at once the justice of the claim of the Purchasing Division of lack of space for the storage of these records, and we most heartily concur in a suggestion that has been made that the State should provide an adequate storehouse, where old records, not only of the Division of Purchases but also of

many of the other departments of the State, can be stored and be available in after years for inspection. We most heartily submit this thought to the Legislature for consideration.

Bidders should be encouraged to be present at the opening of bids, and wherever possible awards should be made as soon as possible after bids are opened. We suggest for consideration the preparation of a sufficient number of the tabulations so that each bidder may be furnished with a copy thereof as is done in the case of tires. These copies should show the vendor to whom the award is made. We suggest that the Division give careful consideration to the practice now in vogue in some cities of posting a bulletin board placed in an accessible place, copies of invitations to bidders as well as copies of awards.

One of the most troublesome problems presented by the investigation was that concerning "Confirming Orders," for herein lies potentialities for abuse over which the Division of Purchases has but little control. Every one admits the necessity of emergency purchases. If a tractor or a grader of the Highway Department breaks down in the field or cannot be operated because, say of the lack of a sparkplug, as the testimony shows has happened, it is of couse far better to purchase the necessary parts to put the machinery into operation at once, even though the parts have to be bought at a retail price, than to leave the machinery idle over the long period of time necessary to buy the parts on purchase orders or sealed bids. And, yet, on the other hand, it is exceedingly difficult for Your Committee to understand why an employee of this same Department in the early part of a week will buy two rolls of tape necessary to pack a package or packages for parcel post at a cost of 75c and before the week was out made another like purchase, entailing the making out of two advice of purchase and two confirming orders with all the concomitant clerical work and expense. It appears though

that the heads of Departments have earnestly undertaken the task of curtailing needless emergency purchases and are cooperating with the Division of Purchases in obviating the abuses of the system while leaving intact the necessary outlet for emergencies. Every advice of emergency purchase should have stated thereon at length the reason for such a purchase signed by the party responsible for the purchase. The Division should urge upon the other Departments that in a spirit of cooperation they adopt disciplinary measures to insure compliance with this requirement.

It would seem that at times requisitions comprising items which totaled over $300.00 were split by the Division into Purchase Orders of less than $300.00 each in order to avoid the necessity of advertising for bids. In some instances an emergency has been of such real character as to palliate the practice; where the boilers broke down in the Eastern Asylum in the winter, and, a like catastrophe occurred in the middle of the night and again in the dead of Winter in the Old Capitol Building at Frankfort. Whatever savings might have been obtained in the taking of competitive bids for the restoration of the boilers in the latter instance would have been utterly wiped out by the expense of heating the buildings ad interim, and by the intangible factors of exposure of employees eduring the long period of time that would have been required in the taking of the bids. In the case of the Eastern State Hospital the emergency was so real as that a locomotive engine was kindly supplied to furnish the steam necessary for these unfortunates while the State engineers were hurrying to get the boilers back in operation. On the other hand no satisfactory explanation was produced as to why an emergency purchase order was made by an employee of the Highway Department of a fairly small amount of repair parts for a Plymouth automobile stalled at Princeton, which order was sent to Harlan to be filled although the car had been bought in Hopkinsville.

It would lengthen this report unduly to set out in detail all of the cases of emergency purchases by the Division of Purchases itself. In addition to the testimony heard in open hearings, Your Committee in its own private investigations examined all of the purchase and confirming orders to which any witness invited our specific attention, and, in addition, we spot-checked a number of Departments in this connection —this, in addition to the examination of award of contracts for the entire period of clothing and for two periods of food. In most instances, explanations as to emergency purchases made by the Division itself satisfied the Committee that there had been no abuse of discretion exercised, yet there were some confirming orders which the Committee thinks might have been avoided.

The Committee cannot criticize the Division, because in doing the repair plumbing work in the New Capitol the same was done under the confirming order procedure. An examination of these confirming orders discloses that a great part of the expenditures was due to labor and a very small part due to materials and supplies. Any one acquainted with the New Capitol knows that the plumbing is in large part concealed plumbing, and no one could know exactly how much labor or what materials will be required in repair work until the plumbing is exposed. Further, even the ordinary householder knows that in the matter of plumbing repair the largest prevailing item of the bill is the labor item. A sealed bid would be a bid in the dark, unless, as urged by one witness, a bid could be taken on the unit price of labor, but, when a faucet leaks or a toilet gets out of order, it does not seem quite feasible to take a sealed bid for labor on such a matter. Where there is a great amount of labor to be performed, as in renovating the plumbing in the New Capitol, we might perhaps differ with the Division as to whether sealed bids on labor should have been taken or not, yet after all we cannot say in differeing with us, the Division abused its discretion,

for as a mater of common knowledge, the price of labor in the plumbing field is fairly well established. The fault that lies in confirming orders is not a matter for legislation. It is a matter of slow and perhaps painful instruction among the employees of various Departments and of consistent urging upon them to cooperate with the Division of Purchases to the end that the confirming order procedure be confined to as narrow a field as possible.

It has been suggested that the Division of Purchases might refuse to pay for articles bought needlessly as it would seem on confirming orders; but it must be remembered that the State has already obtained the article purchased by the time the Advice of Purchase reached the Division of Purchases and, in most instances, has been consumed or used, and the fact that it was bought on an emergency purchase resting in the discretion of the Department purchasing. We apprehend the Courts would not be much impressed under these circumstances by the refusal on the part of the State to pay for the article, because, forsooth, the Clerk involved should have bought four rolls of tape at one time instead of two purchases of two rolls each a few days apart.

Complaint has been made of the Purchasing Division that it has bought at times or agreed to buy at times for articles desired by some Department at a price higher than the salesman offered the same to the Department in question. An investigation into this matter, however, discloses that when this has occurred the particular Department has failed to inform the Division that the article had been offered to the particular Department at less than the list price. The Purchasing Division bought in ignorance that a lower price had been made to the Department for which the article was being purchased. This fault, if any, we think lay with the particular Department in not informing the Purchasing Division of the concession in price offered by the seller.

In connection with the problem of these conforming orders is that of the institutions running very low in needed

and most necessary supplies, with the necessity of an emergency order to cover the period required in the taking of sealed bids on larger quantities of these commodities. The Division of Purchases is very reluctant, as we understand it, to undertake the keeping of records that will warn it of the time when such supplies are probably low in the various institutions for fear that this may throw upon the Division of Purchases the burden of perpetual inventories, and while the statute requires this as to plant and equipment, it does not require it as to supplies. Admittedly, it is the duty of the various institutions in the first instance to take care that no such emergencies such as here detailed shall arise; but at the same time, if, as we shall hereafter recommend, the Division of Purchases shall maintain records as to purchases made for the respective institutions, the character of the commodity purchased and the price paid, these records coupled with a few years experience as to how long such supplies so bought will reasonably take care of the institution, the Division of Purchases will have some reasonable check upon the status of the institution and can call upon it to take the necessary steps to replenish its larder so that emergency purchases such as herein outlined may be awarded. We admit that to some extent this would appear to interfere with the budget control by some Department of its own finances, yet, disagreeable as it may be to any respective Department, if centrailized purchasing is to have the benefits expected of it, some system such as herein indicated, must be adopted.

Before addressing ourselves to the recommendations Your Committee wishes to make, may we discuss, as we promised to at the outset of this report, certain specific charges against the Division with our findings thereon:

It was charged that the Division had purchased typewriters at a higher price than the United States Government or business colleges could procure them for. It is true that the Division paid higher prices than the United State Government and business colleges for certain specific used pay, but

the investigation disclosed that the standard typewriter companies have several different prices. To illustrate, one for the general user, a lower one for states and municipalities, and still a lower one for the United States Government and for the use of students in business colleges, the reason for the latter being palpably for goodwill. The typewriter companies will not sell to the State or municipalities at the price the Government is charged, and, although the R. O. T. C., at the University of Kentucky, at Lexington, attempted to purchase at the Government price and for a time seemed to be successful, ultimately the State had to pay the full State price. By the rules and regulations of the standard typewriter companies which your Committee has examined, the Unemployment Compensation Commission is expressly listed as a State activity and not one of the United States Government, and the typewriters purchased for it are at the State price. The fact that the United States Government, which has control of the budget of the State Unemployment Commission, O. K.'s the purchase of typewriters at the State price corroborates this statement.

In March, 1941, the navy bean market was in a most unsettled condition. A bid, which as listed would have been the lowest bid on navy beans at the bidding held in April, was by letter, before the bids were opened, withdrawn and a higher bid substituted. For some reason this letter was placed in the files but went unnoticed at the time the bids were tabulated, the tabulation of the bid in question being as set out in the bid and not in the letter. The award was then made to the bidder at the price in his original bid, it being the lowest. Before the "Award of Contract" form was made out, the letter withdrawing this first bid was discovered. Without more, the new price of the beans was substituted on the tabulating sheet and the contract again awarded to this bidder. As a matter of fact, even this new bid was lower than all other bids except one. Hence, in this instance the contract was not let to the lowest bidder. The amount involved on the

whole contract was less than $15.00. The Division of Purchases admits the mistake.

Then there was the matter of the purchase of an "electric eel." On investigation, this turned out to be an emergency purchase made by the Department of Welfare and concerning which the Division of Purchases knew nothing until it had been bought and the Advice of Emergency Purchase came through. The criticism of this purchase, if any, rests on the Department of Welfare and not on the Division of Purchases. However, we may say that the price paid for the "electric eel," considering the extra equipment that went with it, was not out of line with the price of the eel without such extra equipment, which was the price first quoted to the representative of the Department of Welfare by the agent handling the same.

Many criticisms were directed against the purchase of food and clothing, more as to clothing than as to food, on account of higher bids being the successful ones. It would expand this report to undue length to take up each one of these criticisms. So far as the food is concerned, Your Committee had the assistance and advice of the Superintendent of a charitable institution taking care of some six hundred individuals and whose interest in Your Committee's investigation was entirely neutral. On the whole, Your Committee cannot say that the prices paid over the two periods for which bids and tabulations were available were other than reasonable, and we accept the explanation of the Division of Purchases that when the lowest bids were not accepted, such falling almost entirely in the category of purchases for the State educational institutions, it was because the dietitians of these institutions preferred for their cafeterias, as we have mentioned above, a fancier brand, representing, at least, what is commonly supposed to be quality, over the more modest quality bought for charitable and penal institutions.

We have heretofore noted the criticism as to absence of specifications which we regard as most vital, offering oppor-

tunity for real lack of competitive bidding, even though the list of invitations to bid had been larger than its actually was, and also for favoritism in the awarding of contracts because of the claim of "Account Quality." Where the shoes were involved, the criticism, in the judgment of your Committee, is justified.

Your Committee's attention was invited to a bid for certain furniture for one of the Departments in the New Office Building, which stated that if another bid on other furniture made by the same vendor were awarded to such vendor, a very handsome reduction in the bid in question could be made. Such a reduction would have made this bid on which the said reduction was offered by far the lowest bid. However, when this bid was coupled with the other bid, even with the reduction offered, the total of the two bids would have amounted to approximately $500.00 more than was paid upon the two bids awarded as they were, so that the lowness of the bid under discussion was specious.

We have heretofore commented on the matter of soap and disinfectants. There was no real competitive bidding in either, but, as we have said before, the real question is, conceding the soaps and disinfectants to be those desired by the institutions using them, would or could such soaps and disinfectants of the ingredients of which "Lusterite" and these other disinfectants were composed, had the specifications been made, have been furnished by any other manufacturer at a price cheaper than was paid?

Criticism was directed toward the tire purchases by the State, principally for the Highway Department. In the first place, bids for tires were taken only occasionally, and, in some instances, invitations to bid were on quantities much less than requisitioned, or were ultimately purchased by the State. In the intervals between invitations to bid commodity price lists were kept by one of the personnel of the Division of Purchases, but whose employer was the Highway Department. Like tire dealers, he, for the Division of Purchases, received

from time to time notices from the tire manufacturers of either advances or reductions (mostly advances) in the price of tires, and thereafter purchases were made on the commodity price list without bids being taken. To refer back where invitations to bid were sent out, on one occasion, out of 187 bids received, the prices were identical on the various items for which bids were called, save in a few minor instances. This result was typical of invitations to bid. A comparison of this situation with that of tire bidding in Indiana does not disclose such a great discrepancy as the witness who called our attention to this matter claimed, for, the tires which were quite low in the Indiana bids were what our Division felt to be inferior tires. Tires in these Indiana bids which fell in the same category of manufacturers' names as appeared in the Kentucky bids, did not compare unfavorably in price with the Kentucky bid price. In passing it can be said that even in the Indiana set-up the award was not always made to the lowest bidder as occurred in some instances in the Kentucky awards. Concededly, the problem presented by this tire as well as by the "automobile parts" situation is one of great practical difficulty. Strictly speaking, invitations to bid should be sent out from time to time for the needs in these fields as then presented, yet, on the other hand the cost of sending out invitations to bid with the reception almost always of identical bids not differing from the prevailing commodity price suggests the futility of invitations to bid. Still, to avoid the criticism that has fallen upon it, we feel the Division, let the expense be what it is, should adhere to the requirements of the law.

We believe that we have fairly covered the matters disclosed by the investigation, especially those which we think call for recommendations to bring about a more efficient operation of the Division of Purchases, and we now address ourselves to these recommendations.

## RECOMMENDATIONS

We first recommend most strongly that the Division of Purchases wholeheartedly and adequately prepare fixed standards of quantity and quality of articles to be purchased and shall do so especially in consultation with the several spending agencies of the State to the end that quantity purchases under real competitive conditions may be obtained.

We recommend legislation changing the law providing for registration of vendors with the Secretary of State to one providing for registration with the Division of Purchases, with the suggestion that if any one so registered fails for a period of one year to bid, after having been invited to bid, he shall receive notice to show cause why his name should not be stricken from the list, and, on failure to show such cause, his name shall be stricken; further, that no vendor on the list of the Division of Purchases, whether by registration or otherwise, shall have his name stricken from the list because of repeated failures to furnish goods of the kind and quality agreed to be furnished without first being given notice to show cause why his name should not be stricken.

Your Committee recommends that the Division of Purchases be encouraged to make the invitations to bid as broad in number as possible, and, unless imperatively required otherwise, that invitations to bid be sent, not only to those who handle one line of goods, whether as manufacturer, general agent, manufacturer's agent or sales agent, but also to like categories who sell a competitive line, providing the two lines fall within the specifications set up.

We recommend that adequate procedure be adopted for checking goods when received by the Departments for which the purchases have been made to ascertain if they be the same as to quality and quantity contracted for, and, to this end, that the testing laboratories of the University of Kentucky and of the State Highway Department be made available by legislation to the Division of Purchases. Although, as a matter of grace, this has heretofore been the rule, yet the

Division of Purchases should have the absolute right to the use of these facilities.

We recommend that an earnest study be made by the Division of Purchases and the heads of all buying agencies of the problem of emergency purchases, with continuous effort on the part of everybody to cut down needless use of the device.

At this point, the Committee wishes to express its belief that more detailed records should be maintained by the Division. A complete, accurate and up-to-date record of purchases should be maintained at all times. While the Division now maintains what is known as a "Commodity Price Record," we believe this record could be enlarged and improved upon. It is suggested that consideration be given to the installation of a Hollerith machine. Such a machine would provide much useful information not now available to those in charge. This information would be most helpful in estimating needs of the departments and institutions, and also in comparing prices and eliminating the possibility of excessive costs. An accurate record should be kept showing the name and address of each vendor to whom an invitation to bid on any commodity has been sent. Such a record would eliminate all question about whether or not an invitation had been sent to a particular vendor in any particular instance. We suggest that the records of bidders be established in such manner that it will be easily possible to determine whether or not any particular vendor bid on any particular invitation. We suggest that a legislative appropriation be made for needful business equipment such as the Hollerith machine above mentioned and addressographs. A purchasing department of any private business comparable in size to that of this State has the needed mechanical devices to function efficiently and promply. The State should have them also.

We recommend that on all requisition blanks the Departments inform the Division of Purchases as to any prices offered such department on the article thus requisitioned by salesmen soliciting the department.

We recommend the adoption of tabulating sheets that will not only give full information concerning the bids, including the opportunities, if any, for discounts which shall be copied, at least, on the copy of the order that goes to the Division of Accounts and Control, so that the latter may take advantage of such discounts, if any are offered. The tabulating sheets should also have space for making such annotations as will give full information as to why bids, if not the lowest, were accepted and why the lowest bids were rejected.

We recommend that an attorney be provided for the Commissioner of Finance to advise on the many legal problems that come up in the Department of Finance, and particularly in the Division of Purchases. Any division having the magnitude of the Division of Purchases in the expenditure of money and the making of many contracts as the Division of Purchases, with the consequential legal problems attendant upon the same, should have available to it an attorney, whose duty it is to devote most of his time to such Division.

We further recommend that consideration be given to asking an appropriation to the Division of Purchases for the purpose of buying standard supplies to be kept in a storeroom and to be furnished departments within reasonable delivery limits and to be charged against them when so furninshed.

We recommend also that the records of the Division of Purchases, when their current use is over, be stored in a suitable storehouse and so stored as to be readily available for inspection.

We believe that the Division should have, at least, two additional experienced buyers, each, so far as practicable, being skilled in lines other than that of his colleagues or

of the Head of the Division. Some one in the Division should be charged with the duty of frequently contacting the heads of the Departments and Institutions in an effort to have requisitions submitted in a manner that will enable more quantity purchase. He should also make sufficient investigation to satisfy himself that receiving clerks and department heads are following the proper procedure to insure receipt of the quantities and quality of merchandise purchased.

No effort has been made by the Committee to determine whether or not the present clerical force will be adequate to properly operate the Division if our suggestions are followed. The adequacy of this force can only be determined by experience. It is possible that the adoption of our recommendations may require additional clerical help. If so, it should be provided.

We recommend that all of those serving the Division of Purchases be employees of the Division of Purchases and paid out of its budget.

## CONCLUSION

Your Committee files with this report a transcript of the evidence heard on the oral hearings. In it are contained all the details upon which our conclusions set forth in this report are founded. Inasmuch as the evidence was given publicity when heard and is available in the transcript to any one who may wish to inspect it further, your Committee did not deem it necessary to incorporate it at any length in this report.

While much was found in the work in the Purchasing Division that, in the opinion of your Committee, needed amendment and correction, as herein set out, it is but fair to the Division to state that the problems of any purchasing department, whether public or private, are often of an intricate nature and not always easy of solution, nor can all the problems be reduced to simple formula. In the Atlantic Monthly for September, 1941, under the utterly irrelevant

title of "Pardon My Harvard Accent" is an article by the Head of the Purchasing Department of Harvard University, a department of not many years standing. A reading of this article will disclose a striking parallel to many of the matters herein discussed. In practically all of the universities of this country there have been established in their business schools courses in purchasing, public and private, corroborating the statement that the matter of purchasing is one involving training and skill. We think that the fundamental trouble with our Purchasing Division was and is the lack of specifications coupled with the lack in number of competitive bidders to whom invitations to bid were sent. If these two matters are corrected and the matter of emergency purchases is better controlled than in the past, the other problems will in large measure solve themselves. Your Committee has tried earnestly to make this report a constructive one. We hope that to some degree at least we have attained that purpose.

Respectfully submitted,

Richard Priest Dietzman
Charles Cronin
Sam W. Eskow

Mr. Henry Ward moved that consideration of the printing of said report for the use of the members of the House be made a Special Order for two o'clock P. M.

Said motion was agreed to.

Mr. Henry Ward moved that the House do now proceed with the Regular Order of Business.

Said motion was agreed to.

Thereupon Mr. Swope offered the following resolution, viz.:

H. Res. 72. A concurrent resolution petitioning the Senate of the United States of America to enact into law a bill

relating to labor disputes in defense industries, and urging the Honorable Albert W. Barkley and the Honorable Albert B. Chandler, Senators from Kentucky, to support the bill.

Whereas, the United States is now engaged in a war in which continued and uninterupted production of war materials will be a vital factor in the attainment of ultimate victory, and

Whereas, the youth of America, comprising our armed forces now engaged in a life and death struggle with the enemy, are in desperate need of the arms and munitions of war with which to bring about our complete victory, and

Whereas, strikes and work stoppages in defense industries are impeding the manufacture of such arms and munitions,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That the Senate of the United States of America be petitioned to enact into law an act which would require a thirty day notice to be given by employees of a defense contractor before a strike or lockout is called and a secret vote before a strike or lockout is called and a secret vote before a strike is conducted in a defense industry, prohibit a defense contractor from denying employment to any person because of his membership or non-membership in a labor union, and the use of violence or intimidation in labor disputes in defense industries, limit pickets to persons who were employees of a defense contractor prior to the beginning of the labor dispute, and prohibit jurisdictional strikes, secondary boycotts and sympathy strikes where defense contracts are involved.

Section 2. That the Honorable Alben K. Barkley and the Honorable Albert B. Chandler be urged to use their personal efforts to secure the action contemplated in section 1.

Section 3. That the Secretary of State be directed to certify copies of this resolution to the Chief Clerk of the

Senate of the United States, and to the Honorable Alben W. Barkley and the Honorable Albert B. Chandler, representatives from Kentucky in the United States Senate.

Said resolution was adopted.

A message was received from the Senate announcing that they had passed a bill which originated in the Senate, entitled:

S. B. 78. An Act relating to county finance repealing, amending and re-enacting Section 1, Section 4, Section 6, Section 8 and Section 9 of Chapter 31, Acts of the General General Assembly, 1938, First Extraordinary Session, and declaring an emergency.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1

Section 1 of Chapter 31, Acts of the General Assembly, 1938, First Extraordinary Session, is hereby repealed, amended and re-enacted so that when amended and re-enacted it shall read as follows:

Section 1. Definitions.—Whenever used in this Act, unless the context requires otherwise:

(1) "Commission" means the County Debt Commission as hereinafter established.

(2) "State Local Finance Officer" means the Commissioner of Revenue or his agent designated in writing with the approval of the Governor.

(3) "Fiscal Court" means the judge of the county court and the justices of the peace or the judge of the county court and the commissioners of the county.

(4) *"Funding bonds" or "funded indebtedness" means bonds issued to fund floating indebtedness, or reissues thereof.*

(5) "Road and bridge bonds" means county road and bridge *bonds issued under the authorization of Section 157a of the Constitution of Kentucky, or reissues thereof.*

(6) *"Refunding bonds" means bonds issued for the purpose of reissuing or renewing outstanding bonds.*

SECTION 2

Section 4 of Chapter 31, Acts of the General Assembly, 1938, First Extraordinary Session, is hereby repealed, amended and reenacted so that when amended and reenacted it shall read as follows:

Section 4. Approval of county bonds.—No county may contract an indebtedness *which, together with all other* indebtedness of the county is in excess of one-half of one percent (0.5%) of the value of the taxable property therein, as determined by the next preceding complete assessment, and issue valid bonds *therefor,* without having first secured the written approval of the State Local Finance Officer. Any other bonds to be issued or reissued by any county may be submitted for approval as hereinafter provided. *When the fiscal court of any county has petitioned the State Local Finance Officer under § 938q-5 for assistance in formulating a plan for reorganizing its debt structure, or has received the approval of any issue or reissue of county bonds voluntarily as provided in this section, all bonds thereafter issued or reissued by the county must be approved as provided in this section.*

The State Local Finance Officer shall hold a hearing for the purpose of determining whether any issue or reissue of bonds submitted to him for approval should be approved or disapproved. The State Local Finance Officer shall withhold his approval if he believes the financial condition and prospects of the county do not warrant a reasonable expectation that interest and principal maturities can be met when due without seriously restricting other expenditures of the county; if, in his discretion, the issue or reissue of bonds will not

serve the best interests of both the county issuing same and a majority of its creditors; or if it appears that the bonds or the issuance thereof will be invalid. *If the State Local Finance Officer is petitioned by any county to approve the issuance of bonds to refund outstanding county bonds, and if the State Local Finance Officer is unable to find that the bonds sought to be refunded were in their entirety validly issued, he shall nevertheless find that bonds may be issued validly for the purpose of refunding said bonds, in equivalent or lesser par principal amount, provided that the interest rate to be borne by said refunding bonds shall be such as to make possible their liquidation within their life at no greater average annual cost to the county than would be required to liquidate, within the same number of years, the portion of the outstanding indebtedness found to be valid at the interest rate borne by it before refunding.*

The State Local Finance Officer shall give at least two weeks' notice of the hearing hereinabove required to the county judge of the county proposing to issue such bonds, *and the county judge shall cause a copy of said notice to be posted at a conspicuous place near the front door of the courthouse at least ten (10) days, exclusive of Sundays and holidays, prior to the date set for the hearing. In the case of bonds proposed to be issued for the purpose of refunding currently outstanding bonds, the State Local Finance Officer shall in addition cause a notice of said hearing to be published at least ten (10) days, exclusive of Sundays and holidays, prior to the date set for the hearing in a financial newspaper or periodical having general circulation among bondholders and bond dealers and said notice shall be paid for by the Department of Revenue out of its appropriation.* Any party having a material interest shall have an opportunity to be heard and to present evidence. The State Local Finance Officer shall make a record of the proceedings of such hearing and *shall prepare a written decision approving or disapproving the issuance of the proposed bonds.* Any interested party

or taxpayer may within fifteen (15) days, exclusive of Sundays and holidays, appeal to the Commission from the *decision* of the State Local Finance Officer. The Commission, upon the basis of the record prepared by the State Local Finance Officer, and of any additional evidence which may be introduced, shall pass upon the decision of the State Local Finance Officer.

Within thirty (30) days, exclusive of Sundays and holidays, after a decision by the Commission any interested party or taxpayer of the county, upon filing bond for costs, may appeal to the Franklin Circuit Court *or, in the case only of bonds proposed to be issued for the purpose of funding floating indebtedness, to either the Franklin Circuit Court or to the circuit court of the county proposing to issue said bonds.* Appeal shall be taken by filing with the clerk of the court a copy of the record of the proceedings and decision of the State Local Finance Officer and the decision of the Commission. *The Commission, the fiscal court, the taxpayers of the county, and, in the case of funding or refunding bonds, the creditors whose claims or bonds are proposed to be funded or refunded, shall be made parties to the appeal. Summons shall be served and class representatives designated as provided in the Civil Code of Practice.* To facilitate adjudication the State Local Finance Officer is hereby required, on payment of a reasonable fee therefor to be fixed by the State Local Finance Officer, to supply a certified copy of such records to any party. The case shall be advanced on the docket of the circuit court and shall be heard and decided as in the case of a declaratory judgment, except that all findings of fact of the State Local Finance Officer and of the Commission shall be final if supported by any substantial evidence; *provided, however, that in the case only where the question of the validity of the indebtedness proposed to be funded or refunded is in issue, additional evidence relating to the validity of such indebtedness may be presented.* An appeal may be taken from the circuit court to the Court of Appeals in the same manner as

the law now permits appeals in declaratory judgment cases, except that such appeal must be taken within (30) days, exclusive of Sundays and holidays, from the entry of the judgment. In case no appeal is taken from the approval of *a bond issue* by the State Local Finance Officer or the Commission as provided in this section, said decision as to the legality of such bonds shall be res adjudicata in any subsequent case or cases raising such question of legality. When bonds are approved as provided in this Act, they shall not be required to be approved as provided in Sections 186c-6 and 186c-7 of Carroll's Kentucky Statutes, 1936 edition.

Record of the approval of bonds as provided in this section shall be made in the minutes of the next meeting of the fiscal court of the county issuing the bonds so approved, *and copies of all decisions of the State Local Finance Officer and of the Commission shall be filed with the Secretary of State.*

SECTION 3

Section 6 of Chapter 31, Acts of the General Assembly, 1938, First Extraordinary Session, is hereby repealed, amended and re-enacted so that when amended and re-enacted it shall read as follows:

Section 6. Sale of County Bonds.—The order of the fiscal court of any county *providing for* the issue or reissue and sale of any bonds shall specify: (a) the maximum amount to be issued, (b) the denominations in which the bonds shall be issued, (c) the maximum interest rate to be paid on the bonds, (d) the term of the bonds (if serial, a fully detailed principal maturity schedule shall be shown), and such other information as the Commission may by regulation require. A certified copy of such order shall be submitted to the State Local Finance Officer, who shall expedite approval or disapproval if requested or *if* required by this Act.

All county bonds offered for sale shall be advertised for sealed competitive bids at least once during each of two consecutive weeks in a newspaper of general bona fide circula-

tion in Kentucky and in the county offering the bonds for sale, *and at least once in a periodical having general circulation among bond buyers,* and shall be sold by the fiscal court to the bidder at such sale offering the price *and interest rate* most advantageous to the county. Nothing herein shall prohibit a county from exchanging reissues of bonds by private arrangements with the bondholders, subject to the approval of the State Local Finance Officer, but such bonds received at exchange must be taken in at par value or less.

The costs of advertising, printing, and any other *necessary* expenses incident to the *issue and* sale of county bonds, excepting and excluding those incurred by the State Local Finance Officer or any member of his staff and the Commission, shall be borne by the county issuing the bonds, and may be deducted from *any premium received on the sale of the bonds.*

SECTION 4

Section 8 of Chapter 31, Acts of the General Assembly, 1938, First Extraordinary Session, is hereby repealed, amended and re-enacted so that when amended and re-enacted it shall read as follows:

Section 8. County Sinking Funds.—On or before the fifteenth day of July of each year, the county judge of each county in this Commonwealth shall, for the *fiscal year* immediately preceding, deliver to the State Local Finance Officer a report showing for the county the total amounts of each and every issue of outstanding bonds and the amount of unfunded debt, if any, together with the interest rate or rates of all indebtedness, sinking fund balances, sinking fund investments or deposits and earnings, payments of debt principal and interest, and such other information respecting indebtedness, whether or not herein enumerated, as the Commission may by regulation require.

*A county may, by order of its fiscal court,* surrender to the State Local Finance Officer all money in hand, notes, bonds, accounts or other credits representing assets avail-

able, and such *other* sums which may hereafter become available from any *and all* sources for paying the principal and interest of any *bonded* debt of the county; *provided, however, that if a county surrenders the sinking fund for any bond issue payable either from the tax levy authorized by Section 157 or by Section 157a of the Constitution of Kentucky or from any special tax levy authorized by law, it must surrender also the sinking funds for all other bonds payable from the same tax levy as herein defined. Such surrender shall be irrevocable on the part of the county. Provided, further, that any* county *which has bond issue* approved under the provisions of this Act *is* required to comply with the provisions of this paragraph *with respect to the sinking funds for the bonds thus approved and for any other bonds payable from the same tax levy as herein defined. The county judge of any county complying with the provisions of the paragraph is hereby relieved of the requirement to submit the annual reports hereinabove specified in this section insofar as these apply to bonded debts, the sinking funds for which have been surrendered to the State Local Finance Officer.*

*All cash so received by the State Local Finance Officer shall be deposited with the State Treasurer to the credit of a fund designated the "County Sinking Fund." All assets other than cash shall be deposited with the State Treasurer and shall be liquidated, upon authorization of the Commission, within a reasonable time.*

*The county treasurer of any county complying with the provisions of this section shall remit monthly to the State Local Finance Officer all monies received from any tax levy made for the exclusive purpose of paying principal and interest on any bonds. Any monies appropriated in the county budget from any other source or any monies required by law to be used for the same purpose shall be remitted as required for paying any principal and/or interest maturities or meeting sinking fund requirements. The State Local Finance Officer is authorized to institute actions in the Franklin*

*Circuit Court to enforce the provisions of this paragraph or to recover any such funds as may have been misapplied.*

Accounts showing the County Sinking Fund receipts and disbursements shall be kept by the State Local Finance Officer for each bond issue of each county for which deposits are made in said fund. As of the close of the county fiscal year the State Local Finance Officer shall, within thirty (30) days thereafter, render to the judge of each county having deposits in said fund a statement thereof for each bond issue of that county. On or about the first day of May of each year, the State Local Finance Officer shall deliver to the county judge, as Chairman of the County Budget Commission, an estimate of the principal and interest requirements of outstanding bonds issued by said county or of the proportionate annual amount which should be deposited in a sinking fund.

Disbursements from the County Sinking Fund shall, when authorized by the State Local Finance Officer, be made in the same manner as other claims on the Commonwealth are paid. Disbursements may be made only for (a) the payment of principal or interest, or both, of the bonds for which the deposit was made, and (b) the investment of such funds as is hereinafter authorized.

*All coupons and bonds for the payment of which deposits are made in the County Sinking Fund shall be paid either directly by the State Local Finance Officer or by the bank designated as paying agent. Such bank may be paid a reasonable fee for such services by the Department of Revenue out of its appropriation. All paid bonds and coupons shall be surrendered to the State Local Finance Officer and canceled, and shall be delivered to the judge of each county along with the annual statement provided for in this section.*

SECTION 5

Section 9 of Chapter 31, Acts of the General Assembly, 1938, First Extraordinary Session, is hereby repealed, amend-

ed and re-enacted so that when amended and re-enacted it shall read as follows:

Section 9. Investment of County Sinking Fund.—The State Local Finance Officer, with the approval of the Commission, shall have authority to invest any funds accrued to the County Sinking Fund and the fiscal court shall have authority to invest any funds accrued to and maintained in a county sinking fund which are not needed to meet interest and principal maturities on county debts within the next succeeding twelve (12) months in obligations secured by the credit of the United States Government, or in warrants of the Commonwealth of Kentucky, or in road and bridge bonds of any county of the Commonwealth which have been approved by the Commission for such investment, provided that *the securities* thus purchased shall *become payable* before the money with which they were purchased shall be required for meeting obligations of the sinking fund. *Nothing in this section shall prevent a county or the State Local Finance Officer from purchasing any bonds, at a price which will result in a saving to the county, prior to their maturity date with sinking fund monies created for their redemption; provided that such monies are not required for the redemption of bonds maturing prior to those purchased, and provided further that bonds so purchased shall be canceled and interest thereon shall cease.*

Any earnings or losses of the County Sinking Fund shall be charged or credited as of July 1 of each year among the counties *maintaining deposits therein in the ratio which the largest amount in any sinking fund account continuously on deposit for a period of six* (6) *months during the twelve* (12) *months preceding allocation bears to the sum of such accounts for all sinking fund accounts.*

SECTION 6

If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, sections 1, 2, 3, 4

and 5 of this Act shall upon the taking effect of the Kentucky Revised Statutes, be substituted, respectively, in place of KRS 66.280, 66.310, 66.330, 66.370 and 66.380, and shall thereafter be treated as amendments to KRS 66.280, 66.310, 66.330, 66.370 and 66.380 rather than amendments to Chapter 31 of the Acts of the First Extraordinary Session of 1938; the numbers "KRS 66.210 and 66.220" shall be substituted for "Sections 186c-6 and 186c-7 of Carroll's Kentucky Statutes, 1936 Edition" in section two of this Act; the number "KRS 66.320" shall be substituted for "§ 938q-5" in section two of this Act; the numbers "KRS 66.290 to 66.390" shall be substituted for "this Act" in sections 1, 3 and 4 of this Act; and KRS 68.210 and 66.210 shall remain unaffected by this Act.

SECTION 7

The distressed condition of several Kentucky counties resulting from unavoidable delay in obtaining approval of the issuance of refunding and funding bonds is declared to constitute an emergency, and this Act shall become a law and be effective on its passage and approval by the Governor.

Ordered that said bill be printed and referred

To the Committee on Rules.

And that they had passed a bill which originated in this House entitled:

H. B. 128. An Act relating to the commission form of government in cities of the 5th and 6th classes.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

Mr. Beard of the Committee on Enrollment reported that they had examined and found to be correctly enrolled, bills of the following titles, viz.:

H. B. 21. An Act relating to the financial administration of cities.

H. B. 204. An Act relating to Unemployment Compensation.

H. B. 203. An Act relating to Unemployment Compensation.

H. B. 120. An Act concerning the manner of commitment of incompetent veterans of the World War.

H. B. 117. An Act authorizing cities of the second class to acquire, erect, maintain and operate a system of parking meters, etc.

Thereupon all other business was suspended, said bills were read at length and compared in open session and found to be correctly enrolled and thereupon, the Speaker, in open session and in the presence of the House, affixed his signature thereto.

Ordered that the Enrolling Clerk of this House deliver said bills to the Senate.

After a time the Enrolling Clerk aforesaid delivered the original and enrolled copies of said bills duly signed by the President of the Senate, into the possession of the Chief Clerk.

Ordered that the Chief Clerk deliver said bills to the Governor.

After a time the Chief Clerk aforesaid reported that he had discharged that duty.

Mr. Henry Ward of the Committee on Rules to which the same had been referred, reported bills and resolutions of the following titles, viz.:

H. Res. 32. Resolution providing for payment of ministers of the churches of Frankfort.

H. B. 291. An Act to repeal, amend and re-enact Sec. 965-a1 Carroll's Kentucky Statutes.

H. B. 317. An Act requiring cities and taxing districts to keep a record of all tax bills, etc.

H. B. 327. An Act relating to the date when drainage assessments become delinquent, etc.

H. B. 339. An Act relating to taxation of insurance companies.

S. B. 5. An Act to protect property by making criminal certain unlawful entries.

S. B. 44. An Act to enable any county of this Commonwealth through its fiscal court to purchase, etc. voting machines.

S. B. 52. An Act to amend Sec. 584 of Carroll's Kentucky Statutes.

S. B. 81. An Act to amend and re-enact Chapter 155, Kentucky Acts, 1940.

With the expression of opinion that said bills and resolution ought to pass.

Said bills and resolution were each and severally read at length the first time and ordered to be placed on the Calendar.

The House took up for consideration from the Calendar, bills of the following titles, viz.:

H. B. 81. An Act relating to the city manager form of government for cities.

H. B. 112. An Act to amend Chapter 28 of the 1938 Acts of the General Assembly.

H. B. 220. An Act amending Sec. 4077, Carroll's Kentucky Statutes.

H. B. 259. An Act to establish Cooperative Live Stock Protective Associations.

H. B. 200. An Act applying to teachers in the Public School System.

H. B. 323. An Act authorizing the creation of a County Veteran's Service Officer.

H. B. 330. An Act relating to the taxation of aviation motor fuel.

H. B. 328. An Act relating to pumps and measuring devices dispensing petroleum products.

H. B. 331. An Act to amend Section 8 Chapter 79 of the 1940 Acts.

H. B. 282. An Act relating to pharmacy.

H. B. 223. An Act relating to manufacture, transportation and sale of distilled spirits.

Ordered that said bills be read the second time.

The Constitutional provision as to the second reading of said bills at length being dispensed with, said bills and resolution were read the second time by their titles only.

Ordered that said bills and resolution be placed in the Orders of the Day.

The hour of two o'clock having arrived, that being the hour for the Special Order of the Day, to-wit: the printing of the report of the Investigating Committee appointed by the Governor on September last.

Mr. Ward moved that the Chief Clerk of this House be directed to have mimeographed five hundred copies of said report for the use of the members of the House.

Said motion was agreed to.

Mr. Henry Ward moved that the session of today be extended indefinitely.

Said motion was agreed to.

The House took up for consideration from the Orders of the Day, a bill entitled:

S. B. 96. An Act authorizing counties, municipalities and other taxing districts to invest their sinking funds or other funds eligible for investment in United States Defense Bonds or any other obligations for the payment of which the faith and credit of the United States Government is pledged, and declaring an emergency.

WHEREAS, many clasess of municipalities and taxing districts are restricted to investment in specified United States bonds and securities which excludes them from all others including the United States Defense Bonds now on the market, and

WHEREAS, many cities and other taxing districts have idle sinking and other funds eligible for investment which could be safely invested in United States Defense bonds and assist the Government in this National emergency,

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

(1) All counties, municipalities and other taxing districts which accumulate sinking funds for the retirement of bonds, or have other funds eligible for investment, are hereby authorized and empowered, in addition to the investment now authorized by law, to invest their respective sinking funds or other funds eligible to investment in United States Defense Bonds or any other bonds or obligations for the payment of which the faith and credit of the United States Government is pledged.

(2) Because of the present pressing necessity for assisting the Federal Government an emergency is declared and this Act shall go into effect from and after its final passage and approval by the Governor.

Mr. Grace offered the following amendment to said bill, viz.:

Amend S. B. 96 in House by striking out all of said bill except the title and enacting clause and inserting in lieu therefor after the enacting clause the following:

Section 1. Section of Chapter 21 of the Acts of 1940 is amended to read as follows:

(1) This state and all public officers, cities, political subdivisions, and public bodies, all banks, trust companies, savings institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, and other persons carrying on an insurance business, and all fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds or other obligations issued by a housing commission pursuant to the Municipal Housing Commission Act or the Rural Housing Commission Act, and any additional amendments thereto, or issued by any public housing authority or agency in the United States, when these bonds or other obligations are secured by a pledge of annual contributions to be paid by the United States or any agency thereof.

(2) These bonds and other obligations shall be authorized security for all public deposits and shall be fully negotiable in this state.

(3) Nothing in this section with regard to legal investments shall relieve any individual or corporation from any duty of exercising reasonable care in selecting securities.

(4) Any county, municipality or other taxing district may legally invest its sinking funds, money or other funds belonging to it or within its control in United States Defense

Bonds or any other bonds or obligations for the payment of which the faith and credit of the United States Government is pledged.

Section 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section 1 of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 386.050, and shall thereafter be treated as an amendment to KRS 386.050 rather than an amendment to Section 1 of Chapter 21 of the Acts of 1940.

Section 3. Because of the present pressing necessity for assisting the Federal Government, an emergency is declared and this Act shall go into effect from and after its final passage and approval by the Governor.

Said amendment was agreed to.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | M. A. Cornett | Joe Higgins |
| George P. Anderson | John Henry Cox | E. R. Hilton |
| Robert E. Barry | Rev. W. W. Crouch | Clyde S. Howard |
| Robert E. Beatty | Guthrie F. Crowe | Jerry F. Howell |
| Rell Bevins | Pink G. Curd | Chas. O. Humston |
| Douglas T. Bolling | John D. Fields | W. H. Hunt |
| H. M. Brock, Jr. | W. W. Freeman | Crow Jarvis |
| Gus A. Brooks | Joseph J. Grace | William L. Jones |
| Sherman E. Carter | P. Bert Hall | John S. Juett |
| T. Fowler Combs | A. G. Hamilton, Jr. | W. A. Lamkin |
| Oris Cooper | Fuller Harding | H. W. Linville |

| | | |
|---|---|---|
| A. L. Love | C. Sid Nabb | Otto Smither |
| Harry K. Lowman | Coy Nevitt | Charles L. Spilman |
| Hugh D. Lyon | Robert Nicholas | James D. Stacey |
| H. McCartney | Paul Pelfrey | R. C. Stephenson |
| Norris McPherson | B. W. Porter | C. W. Taylor |
| Dr. Wm. C. Mann | Kleber F. Price | Egbert Taylor |
| Ed. Marcum | James E. Quill | Roy L. Taylor |
| C. C. May | L. Allen Rhoads | Rev. H. Tinsley |
| J. Milton Mefford | Dr. J. J. Rice | Erna E. Tyra |
| Sam Milam | Dr. M. M. Robinson | C. R. Walden |
| D. J. Moore | Byron H. Royster | Harry Walters |
| J. Lee Moore | Dr. K. N. Salyer | H. A. Ward |
| L. D. Moore | Carl Scheben | Henry Ward |
| C. E. Montgomery | Faust Y. Simpson | |
| E. R. Morlidge | Clyde Smith | —76 |

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 269. An Act making provision for a Statute Revision Commission and a Reviser of Statutes; providing for their appointment, qualification and compensation, and for furnishing them with adequate facilities; prescribing and defining their powers, duties and functions, and the effect of the performance thereof; relating to the printing of the Statutes; and abolishing the Statute Revision Committee.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. The Governor shall, on or before March 1 every four years, beginning with 1942, appoint a Statute Revision

Commission composed of four members, to be selected from a list of eight persons, learned in the law, submitted by the Board of Commissioners of the Kentucky State Bar Association. The members of the commission shall serve for four years and until their successors are appointed and have qualified. Vacancies in the commission shall be filled by appointment by the Governor from a list of two names for each vacancy submitted by the Board of Commissioners of the Kentucky State Bar Association. The members of the commission shall receive no salaries, but shall receive their reasonable and necessary expenses in connection with the performance of their duties, to be paid out of sum appropriated to the commission. The commission shall constitute an agency independent of the administrative departments provided for in Chapter 12 of the Kentucky Revised Statutes.

§ 2. The Division of Purchases and Public Properties shall provide the commission with suitable office space convenient to the State Law Library. The State Librarian shall furnish the commission with a complete set of the Kentucky Reports, beginning with Volume 79, and with advance sheets and permanent volumes as they are published. The State Librarian shall also furnish the commission with a complete set of the printed Acts, beginning with the Acts of 1891, and with future volumes of the Acts as published. The clerk of each house of the General Assembly shall furnish to the commission a copy of each bill introduced in the house of which he is clerk, as soon as the bill is introduced. The contractor for state printing of the first class shall, at the time of printing legislative bills for the use of the members of the General Assembly, and at the time of printing of legislative bills for enrollment, print one additional copy of each bill, from the same type, and furnish it to the commission, any expense connected therewith to be paid from the appropriations made for expense of legislative sessions.

§ 3. The commission shall formulate, supervise and execute plans and methods for the future revision, clarification, classification, codification, arrangement, annotation, indexing, printing, binding, publication, copywriting, sale and distribution of the Kentucky Revised Statutes, including annotations and supplements, and all editions thereof. The commission shall determine when editions shall be published, and shall fix the prices thereof. Such printing shall not be considered printing of the first class within the meaning of the statutes relating to printing of the first class. The commission shall report to the General Assembly whenever called upon, and shall prepare and submit to the General Assembly such consolidation, revision and other matters relating to the statutes as can be completed from time to time.

§ 4. The commission shall control and supervise the use of any type acquired by the state in connection with the printing of editions of the statutes, and may permit the use of the type for the printing of pamphlets of particular portions of the statute laws requested by any state department or agency, under such terms and conditions as the commission considers reasonable.

§ 5. The commission, in preparing editions of the statutes for publication and distribution, shall not alter the sense, meaning or effect of any Act of the General Assembly, but may renumber sections and parts of sections of the Acts of the General Assembly, change the wording of head-notes, rearrange sections, change reference numbers to agree with renumbered chapters or sections, substitute the proper section or chapter numbers for the terms "this Act," "the preceding section," and the like, strike out figures where they are merely a repetition of written words, change capitalization for the purpose of uniformity, and correct manifest clerical or typographical errors. When any edition of the statutes is published by the commission, the Reviser of Statutes shall prepare a certificate certifying that he has compared each

section printed in such edition with the original section in the enrolled Kentucky Revised Statutes, or, in the case of sections of Acts enacted after the adoption of the Kentucky Revised Statutes, with the original section in the enrolled bill, and that, with the exception of the changes in form permitted by this section, the sections in the printed edition are correctly printed. One copy of the edition, with the original certificate affixed thereto, shall be filed in the office of the Secretary of State. All other copies of the edition shall contain a printed copy of the certificate. Any edition so certified shall constitute prima facie evidence of the law in all courts and proceedings, and any section in such edition may be amended or repealed by reference to the section number, without reference to the legislative Act from which it was compiled. No compilation of the statute laws of Kentucky not bearing such a certificate shall be admissible as evidence of the law in any court or proceeding.

§ 6. The commission shall, as soon as possible after its appointment, appoint a Reviser of Statutes, who shall serve for a term of four years and until his successor is appointed and has qualified, subject to removal at any time at the discretion of the commission. The reviser shall consider, prepare, submit and assist in carrying out the plans and methods of the commission. He shall keep an accurate and complete record in the office of the commission of all legislation enacted by the General Assembly and of all bills introduced in the General Assembly, and shall study the same for the purpose of considering and determining the intention and effect thereof. He shall prepare and keep accurate and complete annotations of court decisions construing the statutes. He shall advise and assist the members of the General Assembly and the various departments and agencies of the state government in the preparation and revision of all legislation and matters connected therewith. He shall, when requested by the General Assembly or either house thereof, report to the

General Assembly on bills introduced, calling attention to their effect on existing legislation and to any deficiencies in their form.

§ 7. The commission may appoint, and remove at pleasure, such assistants as may be necessary to the discharge of its duties, and shall fix the salary of the reviser and the assistants, within the limits of the appropriations made to the commissions.

§ 8. Section 2438a-5 to 2438a-11, inclusive, of Carroll's Kentucky Statutes, 1936 edition, as amended by Chapter 41 of the Acts of 1938, are repealed, except that the committee heretofore appointed under section 2438a-5 shall remain in office until the commission provided for by section one of this Act is appointed. The commission shall be the immediate successor of the committee, and any unexpended funds appropriated to the committee shall be used by the commission.

§ 9. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, this Act shall be treated as repealing KRS 447.050 and 447.060, regardless of the date of enactment or taking effect of the Kentucky Revised Statutes.

§ 10. As there is an immediate need for the services of the Statute Revision Commission and of the Reviser of Statutes in order that all future Acts of the General Assembly may be enacted with reference to the Kentucky Revised Statutes, an emergency is declared to exist and this Act shall take effect upon its passage.

Mr. Henry Ward moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| George P. Anderson | W. H. Hunt | Kleber F. Price |
| Henry Arrowood | Joe B. Jarboe, Jr. | L. Allen Rhoads |
| Douglas T. Bolling | Crow Jarvis | Dr. J. J. Rice |
| H. M. Brock, Jr. | William L. Jones | Wade H. Riley |
| Gus A. Brooks | John S. Juett | Dr. M. M. Robinson |
| Sherman E. Carter | W. A. Lamkin | Byron H. Royster |
| T. Fowler Combs | H. W. Linville | Dr. K. N. Salyer |
| Oris Cooper | Hugh D. Lyon | Carl Scheben |
| M. A. Cornett | Norris McPherson | Leon J. Shaikun |
| John Henry Cox | Dr. Wm. C. Mann | Faust Y. Simpson |
| Rev. W. W. Crouch | Ed. Marcum | Otto Smither |
| Pink G. Curd | C. C. May | Charles L. Spilman |
| Forest C. Easley | J. Milton Mefford | James D. Stacey |
| Harry W. Ennis | Sam Milam | R. C. Stephenson |
| T. P. Fitzpatrick | D. J. Moore | C. W. Taylor |
| W. W. Freeman | J. Lee Moore | Egbert Taylor |
| Joseph J. Grace | L. D. Moore | Roy L. Taylor |
| P. Bert Hall | C. E. Montgomery | Rev. H. Tinsley |
| A. G. Hamilton, Jr. | E. R. Morlidge | Erna E. Tyra |
| Joe Higgins | C. Sid Nabb | C. R. Walden |
| E. R. Hilton | Coy Nevitt | Harry Walters |
| Clyde S. Howard | Robert Nicholas | H. A. Ward |
| Chas. O. Humston | B. W. Porter | Henry Ward |

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There voted in the negative—

Robert E. Beatty A. L. Love —2

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 270. An Act relating to the preparation and printing of the Journal and Acts of the present session of the General Assembly.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Inasmuch as the Kentucky Revised Statutes enacted at the present session of the General Assembly are to be printed in a separate volume, therefore, in the official printing of the Acts enacted at the present session of the General Assembly, and in the official copying and printing of the Journals of the House and Senate of the present General Assembly, the statute laws designated as the Kentucky Revised Statutes and enacted by H. B. No. 271 shall not be set forth in full, but there shall be inserted at the end of the first paragraph of section one of that Bill the following: "Here followed the Kentucky Revised Statutes."

§ 2. Whereas it is customary for the Journals and Acts of the General Assembly to be prepared for printing before expiration of ninety days from the close of the session, and it is imperative that this Act take effect prior to the time that the Journals and Acts are prepared for printing in order that those charged with the duty of preparing and printing may be fully advised as to their duties, an emergency is declared to exist and this Act shall take effect upon its passage and approval by the Governor.

Mr. Henry Ward moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | W. H. Hunt | Kleber F. Price |
| George P. Anderson | Joe B. Jarboe, Jr. | James E. Quill |
| Henry Arrowood | Crow Jarvis | L. Allen Rhoads |
| Robert E. Beatty | William L. Jones | Dr. J. J. Rice |
| Rell Bevins | John S. Juett | Wade H. Riley |
| Douglas T. Bolling | W. A. Lamkin | Dr. M. M. Robinson |
| H. M. Brock, Jr. | H. W. Linville | Byron H. Royster |
| Gus A. Brooks | Hugh D. Lyon | Dr. K. N. Salyer |
| Sherman E. Carter | H. McCartney | Carl Scheben |
| M. A. Cornett | Norris McPherson | Leon J. Shaikun |
| John Henry Cox | Dr. Wm. C. Mann | Faust Y. Simpson |
| Rev. W. W. Crouch | Ed. Marcum | Clyde Smith |
| Guthrie F. Crowe | C. C. May | Otto Smither |
| Pink G. Curd | Sam Milam | Charles L. Spilman |
| Forest C. Easley | D. J. Moore | James D. Stacey |
| John D. Fields | J. Lee Moore | R. C. Stephenson |
| W. W. Freeman | L. D. Moore | Egbert Taylor |
| Joseph J. Grace | C. E. Montgomery | Roy L. Taylor |
| P. Bert Hall | E. R. Morlidge | Rev. H. Tinsley |
| A. G. Hamilton, Jr. | C. Sid Nabb | Erna E. Tyra |
| Fuller Harding | Coy Nevitt | C. R. Walden |
| Joe Higgins | Robert Nicholas | Harry Walters |
| E. R. Hilton | H. C. Patterson | H. A. Ward |
| Clyde S. Howard | Paul Pelfrey | Henry Ward |
| Chas. O. Humston | B. W. Porter | |

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Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 271. An Act revising the statute laws of the Commonwealth, enacting the revised statutes as the law of the Commonwealth, repealing all prior statute laws of a general and public nature, and prescribing the effective date of this Act.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The following statute laws are hereby enacted as the laws of the Commonwealth, to be known, designated and cited as the Kentucky Revised Statutes.

(Here followed the Kentucky Revised Statutes)

Mr. Henry Ward moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Chas. O. Humston | James E. Quill |
| George P. Anderson | W. H. Hunt | L. Allen Rhoads |
| Henry Arrowood | Crow Jarvis | Dr. J. J. Rice |
| Robert E. Beatty | William L. Jones | Wade H. Riley |
| Rell Bevins | John S. Juett | Dr. M. M. Robinson |
| H. M. Brock, Jr. | W. A. Lamkin | Byron H. Royster |
| Gus A. Brooks | H. W. Linville | Dr. K. N. Salyer |
| Sherman E. Carter | A. L. Love | Carl Scheben |
| C. L. Clayton | Hugh D. Lyon | Leon J. Shaikun |
| T. Fowler Combs | H. McCartney | Faust Y. Simpson |
| Oris Cooper | Norris McPherson | Clyde Smith |
| M. A. Cornett | Dr. Wm. C. Mann | Otto Smither |
| John Henry Cox | Ed. Marcum | Charles L. Spilman |
| Rev. W. W. Crouch | C. C. May | James D. Stacey |
| Guthrie F. Crowe | J. Milton Mefford | R. C. Stephenson |
| Pink G. Curd | Sam Milam | Thomas M. Swope |
| Forest C. Easley | D. J. Moore | C. W. Taylor |
| Harry W. Ennis | J. Lee Moore | Egbert Taylor |
| John D. Fields | L. D. Moore | Roy L. Taylor |
| T. P. Fitzpatrick | C. E. Montgomery | Rev. H. Tinsley |
| W. W. Freeman | E. R. Morlidge | Erna E. Tyra |
| Joseph J. Grace | C. Sid Nabb | S. J. Wagner |
| Bert Hall | Coy Nevitt | C. R. Walden |
| A G. Hamilton, Jr. | Robert Nicholas | Harry Walters |
| Fuller Harding | H. C. Patterson | H. A. Ward |
| E. R. Hilton | Paul Pelfrey | Henry Ward |
| Clyde S. Howard | B. W. Porter | |
| Jerry F. Howell | Kleber F. Price | |

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Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 54. An Act to amend an Act entitled: "An Act to provide an elective system of Workmen's Compensation for Industrial Accidents," and known as Chapter Thirty-three of the Acts of the General Assembly of the Commonwealth of Kentucky, approved by the Governor on March 23, 1916, and being Chapter Thirty-three, page 354 of the Acts of the General Assembly of Kentucky, and amendments thereto; and providing that when an employee who has been awarded disability compensation, shall die prior to the payment to him of the amount of the award, then the dependents of the deceased employee shall be allowed and paid all future and allowed and uncollected awards so made to such employee.

With Committee amendments thereto.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That "An Act to provide an elective system of Workmen's Compensation for Industrial Accidents," and known as Chapter Thirty-three of the Acts of the General Assembly of the Commonwealth of Kentucky, approved by the Governor on March 23, 1916 and the amendments thereto, be amended and the following added thereto:

Section 2. That when an employee, who has been awarded disability compensation by the Workmen's Compensation Board, shall die prior to the payment to him of the amount of the award, then the dependents of the deceased employee shall be allowed and paid all allowed and unpaid awards made to such employee.

Section 3. Provided, however, that the dependents of such deceased employee shall, within sixty days after the

death of such employee, file with the Workmen's Compensation Board, in such form as the Board may require, a written, verified application, stating therein the date of the death of such deceased employee; the amount of such allowed and uncollected award the names, ages, post-office address, and the relation of each of said dependents to the deceased. Thereupon the Workmen's Compensation Board shall notify in writing the Company, person or Insurance Carrier against whom such award was made; and shall fix a time and place for a hearing of which notices shall be given to determine the dependability of those making such claim; and shall make an award or order for the benefit of those found to be entitled thereto.

Provided, however, that the number of weekly payments to be paid to the dependents shall be the number of weeks remaining after deducting the number of weekly payments made to the decedent from the number of weeks allowed in the original award.

Section 4. That all laws and parts of laws in conflict herewith are hereby repealed.

Said amendments as proposed by the Committee are as follows, viz:

1. Amend H. B. 54 on page 2, section 2, line 2 by inserting after the word "die" and before the word "prior" the following:

"as a result of such injury"

2. Amend H. B. 54 on page 2, section 3, line 17 by adding the following:

"The total amount paid and payable to the decedent and his dependents shall not exceed the amount now payable for death at the average weekly wage of the decedent at the time of his injury, and the weekly payments to the dependents shall not exceed the sum of twelve ($12.00) dollars a week."

Said amendments were each agreed to.

Ordered that said bill be engrossed and read the third time.

The Constituitional provision as to the third reading of said bill at length being dispensed with, and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz,

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | W. H. Hunt | Kleber F. Price |
| George P. Anderson | Crow Jarvis | James E. Quill |
| Henry Arrowood | William L. Jones | L. Allen Rhoads |
| Robert E. Beatty | W. A. Lamkin | Dr. J. J. Rice |
| Rell Bevins | H. W. Linville | Wade H. Riley |
| H. M. Brock, Jr. | A. L. Love | Dr. M. M. Robinson |
| Gus A. Brooks | Hugh D. Lyon | Byron H. Royster |
| Sherman E. Carter | H. McCartney | Dr. K. N. Salyer |
| C. L. Clayton | Norris McPherson | Carl Scheben |
| T. Fowler Combs | Dr. Wm. C. Mann | Faust Y. Simpson |
| Oris Cooper | Ed. Marcum | Clyde Smith |
| M. A. Cornett | C. C. May | Otto Smither |
| Rev. W. W. Crouch | J. Milton Mefford | Charles L. Spilman |
| Guthrie F. Crowe | Sam Milam | James D. Stacey |
| Pink G. Curd | D. J. Moore | R. C. Stephenson |
| Forest C. Easley | J. Lee Moore | C. W. Taylor |
| John D. Fields | L. D. Moore | Egbert Taylor |
| T. P. Fitzpatrick | C. E. Montgomery | Roy L. Taylor |
| W. W. Freeman | E. R. Morlidge | Erna E. Tyra |
| Joseph J. Grace | C. Sid Nabb | S. J. Wagner |
| A. G. Hamilton, Jr. | Coy Nevitt | C. R. Walden |
| Fuller Harding | Robert Nicholas | H. A. Ward |
| Joe Higgins | H. C. Patterson | Henry Ward |
| E. R. Hilton | Paul Pelfrey | |
| Jerry F. Howell | B. W. Porter | —73 |

Resolved that the title thereof be as aforesaid.

Mr. Salyer moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 314. An Act relating to elections with particular reference to political parties.

Said bill is as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

No organization shall be deemed a political party, nor shall it be entitled to the rights and privileges of a political party under the election laws if its members are directly or indirectly affiliated by any means whatsoever with the Communist Party of the United States, third communistic internationale, or any other foreign agency, political party, organization or government which either directly or indirectly carries on, advocates, teaches, justifies, aids or abets the overthrow by any unlawful means, or which directly or indirectly carries on, advocates, teaches, justifies, aids or abets a program of sabotage, force and violence, sedition or treason against, the Government of the United States or of this State, and no branch or affiliate of any foreign organization shall be recognized as a legal political party or shall have any place on the ballot in any election. No newly organized political party shall be permitted on or to have the names of its candidates printed on the ballot used at any election until it has filed an affidavit by its officers, under oath, that it does not advocate the overthrow of local, State or National Government by force or violence, and that it is not affiliated in any way with any political party or organization, or subdivision of any organization which does advocate such a policy by radio, speech or press.

Mr. Simpson offered the following amendment to said bill, viz:

Amend H. B. 314 on page 1, line 4 by striking out after the word "with" the following "the Communist Party of the United States, third communistic internationale, or"

Said amendment was agreed to.

Mr. Simpson moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| George P. Anderson | Forest C. Easley | W. A. Lamkin |
| Henry Arrowood | John D. Fields | H. W. Linville |
| Robert E. Beatty | T. P. Fitzpatrick | A. L. Love |
| Rell Bevins | W. W. Freeman | Hugh D. Lyon |
| H. M. Brock, Jr. | Joseph J. Grace | H. McCartney |
| Gus A. Brooks | Bert Hall | Dr. Wm. C. Mann |
| Sherman E. Carter | Fuller Harding | Ed. Marcum |
| C. L. Clayton | Joe Higgins | D. J. Moore |
| Oris Cooper | E. R. Hilton | J. Lee Moore |
| M. A. Cornett | Clyde S. Howard | L. D. Moore |
| John Henry Cox | W. H. Hunt | C. E. Montgomery |
| Guthrie F. Crowe | William L. Jones | E. R. Morlidge |
| Pink G. Curd | John S. Juett | C. Sid Nabb |

| | | |
|---|---|---|
| Coy Nevitt | Dr. M. M. Robinson | R. C. Stephenson |
| Robert Nicholas | Dr. K. N. Salyer | C. W. Taylor |
| H. C. Patterson | Carl Scheben | Egbert Taylor |
| Paul Pelfrey | Leon J. Shaikun | Roy L. Taylor |
| B. W. Porter | Faust Y. Simpson | Erna E. Tyra |
| Kleber F. Price | Clyde Smith | H. A. Ward |
| James E. Quill | Otto Smither | Henry Ward |
| L. Allen Rhoads | Charles L. Spilman | |
| Wade H. Riley | James D. Stacey | —64 |

There voted in the negative—

Norris McPherson —1

Resolved that the title thereof be as aforesaid.

Mr. Simpson moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 80. An Act relating to the city manager form of government for cities.

Said bill is as follows, viz:

*Be it Enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 3235dd-34 of Carroll's Kentucky Statutes, 1936 Edition, is amended to read as follows:

"The city manager shall be responsible to the board of commissioners for the proper administration of all affairs of the city, and to that end shall make all appointments, except of members of the board of equalization who shall be appointed by the mayor with the approval of the board of commissioners, and except as otherwise provided in this law,

Except when the board of commissioners is considering his removal, the city manager shall be entitled to be present at all meetings of the board of commissioners and of its committees and to take part in their discussion."

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall stand repealed as of the effective date of the Kentucky Revised Statutes, and the following shall take effect in lieu thereof:

(1) The city manager shall be the executive agent of the mayor and board of commissioners in the management of the city affairs. He shall be responsible to the board for the proper administration of all the affairs of the city, and to that end he shall make all appointments, except as otherwise provided in this chapter, and except that in cities of the second class he shall not appoint the members of the board of equalization, but they shall be appointed by the mayor with the approval of the board of commissioners. Except when the board is considering his removal, he may be present at all meetings of the board and of its committees, and take part in the discussion.

(2) Neither the mayor, board of commissioners nor any commissioner shall dictate the appointment of any person to office or employment by the city manager, or in any manner interfere with the city manager or prevent him from exercising his own judgment in the appointment of officers and employes in the administrative service. Except for the purpose of inquiry the board of commissioners and its members shall deal with the administrative service solely through the city manager, and neither the board nor any member thereof shall give orders to any of the subordinates of the city manager. The provision so substituted by this section shall thereafter be treated as an amendment to KRS 89.570 rather than an amendment to § 3235dd-34 of Carroll's Statutes.

Mr. Henry Ward offered the following amendments to said bill, viz:

1. Amend H. B. 80 on page 1, section 1, line 6 by striking out the following language:

"the mayor with the approval of"

2. Amend H. B. 80 on page 2, section 2, lines 11 and 12 by striking out the following language:

"the mayor with the approval of"

Said amendments were each agreed to.

Mr. Henry Ward moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisons of the Constitution, were as follows, viz:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Pink G. Curd | Jerry F. Howell |
| Henry Arrowood | Forest C. Easley | Chas. O. Humston |
| Robert E. Beatty | John D. Fields | W. H. Hunt |
| Rell Bevins | T. P. Fitzpatrick | Crow Jarvis |
| Gus A. Brooks | W. W. Freeman | William L. Jones |
| C. L. Clayton | Joseph J. Grace | John S. Juett |
| T. Fowler Combs | Bert P. Hall | W. A. Lamkin |
| M. A. Cornett | Joe Higgins | H. W. Linville |
| Guthrie F. Crowe | Clyde S. Howard | A. L. Love |

| | | |
|---|---|---|
| Hugh D. Lyon | H. C. Patterson | Otto Smither |
| H. McCartney | Paul Pelfrey | Charles L. Spilman |
| Norris McPherson | B. W. Porter | R. C. Stephenson |
| Dr. Wm. C. Mann | Kleber F. Price | Thomas M. Swope |
| Ed. Marcum | James E. Quill | C. W. Taylor |
| C. C. May | L. Allen Rhoads | Egbert Taylor |
| J. Milton Mefford | Dr. J. J. Rice | Roy L. Taylor |
| D. J. Moore | Dr. M. M. Robinson | Rev. H. Tinsley |
| J. Lee Moore | Byron H. Royster | Erna E. Tyra |
| C. E. Montgomery | Dr. K. N. Salyer | S. J. Wagner |
| E. R. Morlidge | Carl Scheben | Harry Walters |
| C. Sid Nabb | Leon J. Shaikun | H. A. Ward |
| Coy Nevitt | Faust Y. Simpson | Henry Ward |
| Robert Nicholas | Clyde Smith | —68 |

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 290. An Act relating to freight motor trucks and trailers.

Said bill is as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Sec. 1. That section 2739g-92 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, of the Acts of the General Assembly of 1932, be and the same hereby is amended and re-enacted, so that said section as amended and re-enacted shall read as follows:

(a) The provisions of this act shall not apply to motor trucks, semitrailer trucks or trailers, owned by, or by any

agency of, the United States, the Commonwealth of Kentucky, or any county or city or incorporated town therein.

(b) If any motor-truck, semi-trailer truck or trailer, shall be licensed by any city or incorporated town in this State, and the registration plate or plates issued as evidence of said license shall be conspicuously exhibited on said motor-truck, semi-trailer truck or trailed in the manner required by ordinance, the provisions of Sections, Two (K.S. Sec. 2739g-81), Three (K.S. Sec. 2739g-82), Four (K.S. Sec. 2739g-83), Five (K.S. Sec. 2739g-84), Six (K.S. Sec. 2739g-85), Nine (K.S. Sec. 2739g-88), Ten (K.S. Sec. 2739g-89) and Eleven (K. S. Sec. 2739g-90) hereof shall not apply to the operation of such motor-truck, semi-trailer truck or trailer, within the limits of the city or incorporated town issuing such license, or within fifteen miles of the limits thereof, if it be a city of the first, second, third or fourth class, or within five miles of the limits thereof, if it be a town of the fifth or sixth class. Provided, that all cities and incorporated towns are hereby empowered to provide, by ordinance, maximum limits with respect to the weight, height, width and length of motor-trucks, semi-trailer trucks and trailers, within their respective boundaries, not less, however, than the maximum limits prescribed in Sections Three (K. S. Sec. 2739g-82), Four (K.S. Sec. 2739g-83), Five (K.S. Sec. 2739f-84) and Six (K.S. Sec. 2739g-85) hereof, to authorize the operation of trailers, therein, to impose license taxes on motor-trucks truck-tractors, semi-trailers and trailers, and to require that all vehicles to which licenses may be issued shall affix the registration plate or plates issued as evidence of said licenses to said vehicles in some conspicuous place, to be prescribed by ordinance.

(c) The Commission is hereby authorized to prescribe by orders of general application, rules and regulations for the issuance by it of permits for the operation of motor trucks, tractors, semi-trailer and trailer, whose gross weight including load, height, width or length may exceed the limits pre-

scribed by Sections Three (K. S. Sec. 2739g-82), Four (K. S. Sec. 2739g-83), Five (K. S. Sec. 2739g-84), and Six (K. S. Sec. 2739g-85) hereof, or which in other respects fail to comply with the requirements of this act. Said permits may be issued by said Commissioner for stated periods and for special purposes and to meet unusual conditions, and upon such terms and conditions in the interest of public safety and the preservation of the highways as the Commission may, in its discretion, require. Said Commission shall require, as a condition to the issuance of such permit, that the applicant pay a reasonable fee therefor, to be fixed by the Commission, and may require that the applicant give bond, with approved surety, to indemnify the State, and or the counties thereof, against damage to roads or bridges resulting from the use thereof by the applicant. The operation of motor trucks, tractors, semi-trailers or trailers, in accordance with the terms of any permit shall not constitute a violation of this Act, provided the operator thereof shall have said permit, or a copy thereof, authenticated as the Commission may require in his possession. The operation of any motor-truck, tractor, semi-trailer or trailer, in violation of the terms of any such permit, shall constitute a violation of this Act.

(d) The limitation herein prescribed by Section Three (K. S. Sec. 2739g-82) shall not apply, prior to January first, nineteen hundred and thirty-three, to any motor truck or semi-trailer truck which shall have been registered and shall have paid the annual registration fee as provided by the law of this State, before the date upon which this Act shall be approved by the Governor, or before the date, this Act shall become a law without the approval of the Governor, but shall, as to such vehicles, be and become in full force and effect on and after January first, nineteen hundred and thirty three.

Mr. Walters moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | W. H. Hunt | Kleber F. Price |
| Robert E. Beatty | Crow Jarvis | L. Allen Rhoads |
| Rell Bevins | William L. Jones | Dr. J. J. Rice |
| Douglas T. Bolling | John S. Juett | Dr. M. M. Robinson |
| H. M. Brock, Jr. | W. A. Lamkin | Byron H. Royster |
| Gus A. Brooks | H. W. Linville | Dr. K. N. Salyer |
| Sherman E. Carter | A. L. Love | Carl Scheben |
| T. Fowler Combs | Hugh D. Lyon | Leon J. Shaikun |
| Oris Cooper | H. McCartney | Faust Y. Simpson |
| M. A. Cornett | Norris McPherson | Clyde Smith |
| John Henry Cox | Dr. Wm. C. Mann | Otto Smither |
| Rev. W. W. Crouch | Ed. Marcum | Charles L. Spilman |
| Guthrie F. Crowe | C. C. May | R. C. Stephenson |
| Pink G. Curd | J. Milton Mefford | C. W. Taylor |
| Forest C. Easley | D. J. Moore | Egbert Taylor |
| Joseph J. Grace | J. Lee Moore | Roy L. Taylor |
| A. G. Hamilton, Jr. | C. E. Montgomery | Rev. H. Tinsley |
| Fuller Harding | E. R. Morlidge | S. J. Wagner |
| Joe Higgins | Coy Nevitt | Harry Walters |
| E. R. Hilton | Robert Nicholas | H. A. Ward |
| Clyde S. Howard | H. C. Patterson | Henry Ward |
| Jerry F. Howell | Paul Pelfrey | |
| Chas. O. Humston | B. W. Porter | —67 |

Resolved that the title thereof be as aforesaid.

Mr. Walters moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 320. An Act to provide for the condemnation of property by cities of the second class during time of war.

Said bill is as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. During such time as a state of war may exist, pursuant to the declaration of the Congress of the United States of America, The Board of Commissioners or other governing body of any city of the second class may, if the acquisition of land be material to the national defense, or of any governmental project directly related to the war effort, by declaring such fact by resolution, order the condemnation of said land, either within or out of said city, pursuant to the provisions of Sections 3095 to 3095g, with the following exceptions:

(1) The judge shall, upon the filing of a petition, grant possession of said land by interlocutory judgment rendered immediately after the filing of the report by the commissioners duly appointed pursuant to the provisions of Section 3095a. Prior to the rendering of such interlocutory judgment, the city shall be required to pay into the court the sum awarded by the commisisoners in their report. The court may, after having rendered said interlocutory judgment upon motion by the city, cause its commissioners to execute to the city a deed of conveyance, which deed shall be executed as nearly as practicable in accordance with the rules governing the conveyance of property by commissioners when sold under order of court.

(2) The commissioners appointed pursuant to Section 3095a may report at any time after summons has been duly issued or warning order attorney appointed, and the court shall thereafter award possession to the city by interlocutory judgment, as hereinbefore set out. Thereafter, either party may, before answer day, file written exceptions to said report, as provided in Section 3095c, except that the city's exceptions, if any, shall be made prior to the entry of said interlocutory judgment. The sum not in controversy shall be paid or tendered to the parties defendant by the court prior to the entry of said interlocutory judgment.

(3) Before rendering the interlocutory judgment, the court shall require the city to execute a bond, with surety to be approved by the court, conditioned upon the city paying to the parties defendant the difference between the sum paid into court and that which may be thereafter determined by a jury to be the value of the property and incidental damages, if any, if the parties defendant except to the report of the commissioners, unless the city shall have sufficient funds duly appropriated and on deposit to pay any money judgments that may be thereafter given against it, and such fact be alleged in its petition.

(4) The city shall not be permitted to abandon the proceeding after having obtained title to said land unless none of the parties defendant will be materially prejudiced thereby.

Section 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, the references in section one of this Act to "Sections 3095 to 3095g, 3095a and 3095c" shall be admitted as referring to KRS 94.680 to 94.720, 94.690 and 94.700, respectively.

Section 3. WHEREAS, a state of war exists and the development and completion of projects material or directly related to the war effort depends upon the immediate acquisition of the possession of land required for such projects, an

emergency is declared to exist and this Act shall take effect upon its passage and approval by the Governor.

Mr. Scheben moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | W. H. Hunt | B. W. Porter |
| Robert E. Beatty | Crow Jarvis | Kleber F. Price |
| Rell Bevins | William L. Jones | Dr. J. J. Rice |
| Douglas T. Bolling | John S. Juett | Wade H. Riley |
| Gus A. Brooks | W. A. Lamkin | Dr. M. M. Robinson |
| Sherman E. Carter | H. W. Linville | Byron H. Royster |
| C. L. Clayton | A. L. Love | Carl Scheben |
| T. Fowler Combs | Norris McPherson | Leon J. Shaikun |
| M. A. Cornett | Dr. Wm. C. Mann | Faust Y. Simpson |
| John Henry Cox | Ed. Marcum | Clyde Smith |
| Rev. W. W. Crouch | C. C. May | Otto Smither |
| Guthrie F. Crowe | J. Milton Mefford | Charles L. Spilman |
| Pink G. Curd | D. J. Moore | James D. Stacey |
| Forest C. Easley | J. Lee Moore | R. C. Stephenson |
| Harry W. Ennis | L. D. Moore | C. W. Taylor |
| T. P. Fitzpatrick | C. E. Montgomery | Egbert Taylor |
| Joseph J. Grace | E. R. Morlidge | Roy L. Taylor |
| P. Bert Hall | C. Sid Nabb | Rev. H. Tinsley |
| A. G. Hamilton, Jr. | Coy Nevitt | C. R. Walden |
| Fuller Harding | Robert Nicholas | H. A. Ward |
| Joe Higgins | H. C. Patterson | Henry Ward |
| Clyde S. Howard | Paul Pelfrey | —65 |

Resolved that the title thereof be as aforesaid.

Mr. Scheben moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 273. An Act to amend section 125b-1 of Carroll's Kentucky Statutes, 1936 edition, relating to the office of Commonwealth's Attorney in counties containing a population of one hundred and fifty thousand or more.

Whereas, in counties containing a population of one hundred and fifty thousand or over, a large portion of the population of said counties is composed of persons of the colored race, and it is deemed essential to the general welfare of said counties and people to work in harmony with said race and to employ whenever possible persons of that race to work among them without doing violence to, or discriminating against, any person because of race or previous condition of servitude, and

Whereas, the work in said office in said counties has greatly increased and it becomes necessary to increase the number of district detectives in the office of Commonwealth's Attorney in said counties, now therefore,

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 125b-1 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

In counties having a population of 150,000 or more the Commonwealth's Attorney shall appoint four district detectives for a term of four years, subject to removal at any time

by the Commonwealth's Attorney. The district detectives shall each be paid a salary to be fixed by the fiscal court and paid out of the county levy in equal monthly installments.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of subsection (1) of KRS 69.110, and shall thereafter be treated as an amendment to subsection (1) KRS 69.110 rather than an amendment to § 125b-1 of Carroll's Statutes.

Mr. Ray Stephenson offered the following amendment to said bill, viz.:

Amend H. B. 273 on page 2, section 1, lines 6 and 7 by striking out lines 6 and 7 and adding in lieu thereof the following:

"The district detectives shall each be paid a salary not to exceed twenty-four hundred dollars (2400.00) annually for each detective, to be paid out of the county levy in equal monthly installments."

Said amendment was agreed to.

Mr. Ray Stephenson moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Clyde S. Howard | B. W. Porter |
| George P. Anderson | Chas. O. Humston | Kleber F. Price |
| Henry Arrowood | W. H. Hunt | Dr. J. J. Rice |
| Robert E. Barry | Crow Jarvis | Wade H. Riley |
| W. T. Beard | William L. Jones | Dr. M. M. Robinson |
| Robert E. Beatty | John S. Juett | Byron H. Royster |
| Rell Bevins | W. A. Lamkin | Dr. K. N. Salyer |
| Douglas T. Bolling | H. W. Linville | Carl Scheben |
| H. M. Brock, Jr. | A. L. Love | Leon J. Shaikun |
| Sherman E. Carter | Hugh D. Lyon | Clyde Smith |
| T. Fowler Combs | H. McCartney | Otto Smither |
| Oris Cooper | Norris McPherson | Charles L. Spilman |
| M. A. Cornett | Dr. Wm. C Mann | James D. Stacey |
| John Henry Cox | Ed. Marcum | R. C. Stephenson |
| Guthrie F. Crowe | C. C. May | Thomas M. Swope |
| Pink G. Curd | J. Milton Mefford | C. W. Taylor |
| Forest C. Easley | D. J. Moore | Egbert Taylor |
| John D. Fields | J. Lee Moore | Roy L. Taylor |
| T. P. Fitzpatrick | L. D. Moore | Rev. H. Tinsley |
| W. W. Freeman | C. E. Montgomery | Erna E. Tyra |
| Joseph J. Grace | E. R. Morlidge | S. J. Wagner |
| A. G. Hamilton, Jr. | Coy Nevitt | H. A. Ward |
| Fuller Harding | Robert Nicholas | Henry Ward |
| E. R. Hilton | H. C. Patterson | —71 |

Those who voted in the negative were—

Rev. W. W. Crouch Paul Pelfrey —2

Resolved that the title thereof be as aforesaid.

Mr. Ray Stephenson moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Henry Ward moved that the vote by which the House reconsidered and laid on the table the vote by which a bill entitled:

H. B. 54. (For title see House Journal of today ante)

Was passed,

Be reconsidered.

Said motion was agreed to.

Thereafter such reconsideration, Mr. Henry Ward offered the following amendment to the title of said bill, viz.:

Amend the title to H. B. 54 by striking out all the title and inserting in lieu therefor the following:

"An Act relating to workmen's compensation for industrial accidents."

Said amendment was agreed to.

Resolved that the title thereof be as amended.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Ward moved that when the House adjourn today, it adjourn to meet again on tomorrow, February 19 at eleven o'clock a. m.

Said motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 309. An Act to authorize the creation and establishment of County Housing Commissions by counties, of Regional Housing Commissions by two or more counties, and

Consolidated Housing Commissions by two or more municipalities to undertake slum clearance and housing projects to provide dwelling accommodations for persons of low income; to provide that such Commissions shall be public bodies corporate and politic, and to define the rights, powers, duties and immunities of such Commissions; to provide for the exercise of such powers including acquiring property, borrowing money, issuing bonds and other obligations and giving security therefor; to specifically authorize County and Regional Housing Commissions to undertake housing projects for farmers of low income; to authorize Housing Commissions of municipalities to operate in other municipalities with their consent; to authorize Housing Commissions to cooperate with one another and to provide certain security for their obligations, to define the area for their meetings and the residence requirements for their commissioners; to authorize certain security for certain obligations of Housing Commissions; to repeal Chapter 23 of the Acts of 1940 and to declare an emergency.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. *Definitions and Construction.* (1) As used in this Act, unless the context requires otherwise:

(a) "Bonds" means any bonds, notes, interim certificates, debentures, and other obligations issued by the Commission pursuant to this Act.

(b) "Clerk" means the clerk of the city or the clerk of the county, as the case may be, or the officer charged with the duties customarily imposed on such clerk.

(c) "Commission" or "Housing Commission" means any of the public corporations created pursuant to this Act.

(d) "Federal Government" includes the United States of America, the United States Housing Authority or any

other agency or instrumentality, corporate or otherwise, of the United States of America.

(e) "Governing body" means, in the case of a city, the City Council, the Commmission, the Board of Trustees or other legislative body of the city; and in the case of a county, the fiscal court.

(f) "Housing Project" means any work or undertaking: To demolish, clear or remove buildings from any slum area; such work or undertaking may embrace the adaptation of such area to public purposes, including parks or other recreational or community purposes; or to provide decent, safe and sanitary urban or rural dwellings, apartments or other living accommodations for persons of low income; such work or undertaking may include buildings, land, equipment, facilities and other real or personal property for necessary, convenient or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, welfare or other purposes; or to accomplish a combination of the foregoing. The term "housing project" may also be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith.

(g) "Mayor" means the Mayor of the city or the officer thereof charged with the duties customarily imposed on the Mayor or executive head of the city.

(h) "Obligee of the Commission" or "obligee" shall include any bondholder, trustee or trustees for any bondholders, or lessor demising to the Commission property used in connection with a housing project, or any assignee or assignees of such lessor's interest or any part thereof, and the Federal Government when it is a party to any contract with the Commission.

(i) "Persons of low income" means persons or families who lack the amount of income which is necessary (as deter-

mined by the Housing Commission undertaking the housing project) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

(j) "Real property" includes all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens.

(k) "Slum" means any area where dwellings predominate which, by reason of dilapidation, overcrowding, lack of ventilation, light or sanitary facilities, or any combination of these factors, are detrimental to safety, health and morals.

(2) The powers contained in this Act shall be in addition and supplemental to the powers contained in any other Act.

§ 2. *Creation of County and Regional Housing Commissions.* (1) If the governing body of a county by resolution declares (upon findings prescribed in this Act) that there is a need for a Housing Commission to be created for such county to exercise therein powers and other functions prescribed for a Housing Commission of a county, a County Housing Commission shall thereupon exist for such county.

(2) If the governing body of each of two or more contiguous counties by resolution declares (upon findings prescribed in this Act) that there is a need for one Housing Commission to be created for all of such counties to exercise in such counties powers and other functions prescribed for a Regional Housing Commission, a Regional Housing Commission shall thereupon exist for all of such counties and exercise its powers and other functions in such counties. If there is a County Housing Commission created for a county, the governing body of that county shall not adopt such resolution unless first, all holders of any outstanding bonds, notes, or other evidences of indebtedness of such County Housing Commis-

sion consent in writing to such action and the County Housing Commission adopts a resolution not to thereafter initiate any project within such county.

§ 3. *Area of Operation of County and Regional Housing Commissions.* The area of operation of a Housing Commission created for a county shall include all of the county for which it is created and the area of operations of a Regional Housing Commission shall include (except as otherwise provided in this Act) all of the counties for which such Regional Housing Commission is created and established. But no County or Regional Housing Commission shall undertake any housing project or projects within the boundaries of a city unless a resolution has been adopted by the governing body of the city (and also by any Housing Commission which has been created for that city pursuant to this Act or the Municipal Housing Commission Act, Chapter 113 of the Acts of 1934 and amendments) declaring that there is a need for the County or Regional Housing Commission to exercise its powers within that city.

§ 4. *Increasing Area of Operation of Regional Housing Commission.* The area of operation of a Regional Housing Commission shall be increased from time to time to include one or more additional contiguous counties not already within a Regional Housing Commission if the governing body of each of the counties then including in the area of operation of the Regional Housing Commission, the commissioners of the Regional Housing Commission and the governing body of each such additional county or counties each adopt a resolution declearing that there is a need for the inclusion of such additional county or counties in the area of operation of the Regional Housing Commission. Such resolutions shall not be adopted if there is a County Housing Commission created for any such additional county, unless first, all holders of any outstanding bonds, notes or other evidences of indebtedness of that County Housing Commission consent in writing to

such action and the County Housing Commission adopts a resolution not to thereafter initiate any project within that county.

§ 5. *Decreasing Area of Operation of Regional Housing Commission.* The area of operation of a Regional Housing Commission shall be decreased from time to time to exclude one or more counties from such area if the governing body of each of the counties in such area and the commissioners of the Regional Housing Commission each adopt a resolution declaring that there is a need for excluding such county or counties that there is a need for excluding such county or counties from such area. No action shall be taken pursuant to this section if the Regional Housing Commission has outstanding any bonds, notes or other evidences of indebtedness, unless first, all holders of such evidences of indebtedness consent in writing to such action. If such action decreases the area of operation of the Regional Housing Commission to only one county, the Commission shall thereupon constitute and become a Housing Commission for that county, in the same manner as though the Commission was created pursuant to § 2, and the Commissioners of such County Housing Commission shall be thereupon appointed as provided for the appointment of commissioners of a Housing Commission created for a county.

§ 6. The governing body of each of the counties in the area of operation of the Regional Housing Commission and the commissioners of the Regional Housing Commission shall adopt a resolution declaring that there is a need for excluding a county or counties from such area if:

(1) Each of the governing bodies of the counties to remain in the area of operation of the Regional Housing Commission and the commissioners of the Regional Housing Commission find that (because of facts arising or determined subsequent to the time when such area first included the county or counties to be excluded) the Regional Housing

Commission would be a more efficient or economical administrative unit to carry out the purposes of this Act if such county or counties were excluded from such area; and

(2) The governing body of each such county or counties to be excluded and the commissioners of the Regional Housing Commission each also find that (because of the aforesaid changed facts) the purposes of this Act could be carried out more efficiently or economically in such county or counties if the area of operation of the Regional Housing Commission did not include such county or counties.

§ 7. Any property held by a Regional Housing Commission within a county or counties excluded from the area of operation of such Commission, as herein provided, shall (as soon as practicable after the exclusion of said county or counties respectively) be disposed of by such Commission in the public interest.

§ 8. No governing body of a city or county shall adopt a resolution under this Act declaring that that is a need for a Housing Commission to be created, or to exercise its powers within such city or county, or that there is a need to include such city or county within the area of operation of a Housing Commission, unless such governing body shall have found substantially that:

(1) Insanitary or unsafe inhabited dwelling accommodations exist in such city or county or that there is a shortage of safe or sanitary dwelling accommodations in such city or county available to persons of low income at rentals they can afford; and

(2) These conditions can be best remedied through the exercise of the Housing Commissions' powers within the territorial boundaries of such city or county.

§ 9. In determining under this Act whether dwelling accommodations are unsafe or insanitary a governing body shall take into consideration the safety and sanitation of dwellings, the light and air space available to the inhabitants

of such dwellings, the degree of overcrowding, the size and arrangement of the rooms and the extent to which conditions exist in such dwellings which endanger life or property by fire or other causes.

§ 10. The governing body of a county shall not adopt any resolution authorized by Sections 2, 4, 5 or 6 with regard to a Regional Housing Commission unless a public hearing has first been held. The clerk of that county shall give notice of the time, place, and purpose of the public hearing at least ten days prior to the day on which the hearing is to be held, in a newspaper published in that county, or if there is no newspaper published in that county, then in a newspaper having a general circulation in that county. Upon the date fixed for such public hearing an opportunity to be heard shall be granted to all residents of that county and to all other interested persons.

§ 11. In any suit, action or proceeding involving the validity or enforcement of or relating to any contract of a Commission, the Commission shall be conclusively deemed to have become created as a public body corporate and politic upon proof of the adoption of the resolution or resolutions of the governing body or bodies declaring the need for the Commission as required in this Act. Such resolution or resolutions shall be deemed sufficient if it declares that there is such need for the Commission and finds in substantially the foregoing terms (no further detail being necessary) that the conditions enumerated in § 8 exists in the city or county, as the case may be. A copy of the resolution or resolutions duly certified by the Clerk shall be admissible in evidence in any suit, action or proceeding.

§ 12. If a Housing Commission is created for a county, the governing body of that county shall appoint five persons as commissioners of the Housing Commission. Three of the five commissioners who are first appointed shall be designated to serve for terms of one, two or three years and two

of such commissioners for terms of four years, respectively, from the date of their appointments, but thereafter commissioners of the Housing Commission shall be appointed as aforesaid for a term of office of four years except that all vacancies shall be filled by the governing body for the unexpired terms.

§ 13. (1) The governing body of each county included in a Regional Housing Commission shall appoint one person as a commissioner of such Commission, and each such commissioner to be first appointed by the governing body of a county may be appointed at or after the time of the adoption of the resolution declaring the need for such Regional Housing Commission or declaring the need for the inclusion of such county in the area of operation of such Regional Housing Commission. When the area of operation of a Regional Housing Commission is increased to include an additional county or counties as provided above, the governing body of each such county shall thereupon appoint one additional person as a commissioner of the Regional Housing Commission. The governing body of each county shall appoint the successor of the commissioner appointed by it. If any county is excluded from the area of operation of a Regional Housing Commission, the office of the commissioner of such Regional Housing Commission appointed by the governing body of such county shall be thereupon abolished.

(2) If the area of operation of the Regional Housing Commission consists at any time of an even number of counties, the commissioners of the Regional Housing Commission appointed by the governing bodies of such counties shall appoint one additional commissioner whose term of office shall be as herein provided for a commissioner of a Regional Housing Commission except that such terms shall end at any earlier time; that the area of operation of the Regional Housing Commission shall be changed to consist of an odd number of counties. The commissioners of such Commission appointed by the governing bodies of such counties

shall likewise appoint each person to succeed such additional commissioner; provided that the term of office of such person begins during the terms of office of the commissioners appointing him.

(3) The commissioners of a Regional Housing Commission shall be appointed for terms of four years except that all vacancies shall be filled by the appointing authority for the unexpired term.

§ 14. (1) A certificate of the appointment of any commissioner shall be filed with the clerk (provided that in the case of appointment of a commissioner of a Regional Housing Commission by its other commissioners, as provided above, such certificate shall be signed by the commissioners making the appointment and filed with the other records of the Regional Housing Commission) and such certificates shall be conclusive evidence of the due and proper appointment of such commissioner.

(2) No commissioner shall be an officer or employee of a county for which the Commission is created. A commissioner shall hold office until his successor has been appointed and has qualified, except as otherwise provided herein.

(3) A commissioner shall receive no compensation for his services for the Commission, in any capacity, but he shall be entitled to the necessary travel and other expenses incurred in the discharge of his duties.

§ 15. The commissioners shall constitute the Housing Commission. A majority of the commissioners shall constitute a quorum for the purpose of conducting business and exercising powers and for all other purposes. Action may be taken by the Commission upon a vote of a majority of the commissioners present, unless in any case the bylaws of the Commission require a larger number. A Commission shall select from among its commissioners a chairman and a vice-chairman, and it may employ a secretary (who shall be executive director), technical experts and such other officers,

agents and other employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. For such legal services as it may require, a Commission may call upon the chief law officer of the city or a county for which it is created, or may employ its own counsel and legal staff. A Commission may delegate to one or more of its agents or employees such powers or duties as it deems proper.

§ 16. Meetings of the commissioners of a Housing Commission (including any Housing Commission created pursuant to the Municipal Housing Commission Act) may be held anywhere within the perimeter boundaries of the area of operation or territorial jurisdiction of the Commission or within any additional area where the Housing Commission is authorized to undertake a housing project, and any person may be appointed as a commissioner of the Housing Commission who resides within such boundaries or such additional area, and who is otherwise eligible for such appointment under this Act or the Municipal Housing Commission Act, as the case may be.

§ 17. *Interested Commissioners or Employees.* No commissioner or employee of a Commission shall acquire any interest direct or indirect in any housing project or in any property included or planned to be included in any project, nor shall he have any interest direct or indirect in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project. If any commissioner or employee of a Commission owns or controls an interest direct or indirect in any property included or planned to be included in any housing project, he immediately shall disclose the same in writing to the Commission and such disclosure shall be entered upon the minutes of the Commission. Failure so to disclose such interest shall constitute misconduct in office. Upon such disclosure such commissioner or employee shall not participate in any action by the Commission affecting such property.

§ 18. *Removal of Commissioners.* For inefficiency or neglect of duty or misconduct in office, a commissioner may be removed by the authority appointing him, but a commissioner shall be removed only after he has been given a copy of the charges against him at least 10 days prior to the hearing thereon and has had an opportunity to be heard in person or counsel. In the event of the removal of any commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed as required for the certificate of appointment of such commissioner.

§ 19. *Consolidated Housing Commission.* (1) If the governing body of each of two or more cities (whether or not contiguous) by resolution declares that there is a need for one Housing Commission to be created for all of such cities to exercise in such cities the powers and other functions prescribed for a Consolidated Housing Commission, a public body corporate and politic to be known as a Consolidated Housing Commission (with such corporate name as it selects) shall thereupon exist for all of such cities and exercise its powers and other functions within its area of operation (as herein defined), including the power to undertake projects therein.

(2) The creation of a Consolidated Housing Commission and the finding of need therefor shall be subject to the same provisions and limitations of this Act as are applicable to the creation of a Regional Housing Commission and that all of the provisions of this Act applicable to Regional Housing Commission and the commissioners thereof shall be applicable to Consolidated Housing Commissions and the commissioners thereof.

(3) The area of operation of a Consolidated Housing Commission shall include all of the territory within the boundaries of each city joining in the creation of such Commission, except that such area of operation may be changed to include or exclude any city or cities in the same manner and under the same provisions as provided in this Act for chang-

ing the area of operation of a Regional Housing Commission by including or excluding a county or counties.

(4) If the area of operation of a Consolidated Housing Commission is decreased to only one city, such Commission shall thereupon constitute and become a Housing Commission for such city, in the same manner as though such Commission were thereupon created pursuant to the Municipal Housing Commission Act; and for all such purposes the term "county" shall be construed as meaning "city", the terms "County Housing Commission" and "Regional Housing Commission" shall be construed as meaning "Housing Commission of the city" and "Consolidated Housing Commission", respectively, and the term "governing body" as used in §§ 12, 13 and 14 of this Act shall be construed as meaning "mayor", unless a different meaning clearly appears from the context.

§ 20. *Powers of Commission.* A Commission shall constitute a public body corporate and politic, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Act, including the following powers in addition to others herein granted:

(1) To sue and be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the Commission; and to make and from time to time amend and repeal bylaws, rules and regulations, not inconsistent with this Act, to carry into effect the powers and purposes of the Commission.

(2) Within its area of operation; to prepare, carry out, acquire, lease and operate housing projects; to provide for the construction, reconstruction, improvement, alteration or repair of any housing project or any part thereof.

(3) To arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works, or facilities for, or in connection with, a housing project or the occupants thereof; and (notwithstanding anything

to the contrary contained in this Act or in any other provision of law) to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the Federal Government may have attached to its financial aid of the project.

(4) To lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project and (subject to the limitations contained in this Act) to establish and revise the rents or charges therefor; to own, hold, and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or otherwise any real or personal property or any interest therein; to acquire by the exercise of the power of eminent domain or condemnation any real property; to sell, lease, exchange, transfer, assign, pledge or dispose of any real or personal property or any interest therein; to insure or provide for the insurance of any real or personal property or operations of the Commission against any risks or hazards.

(5) To invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally in vest funds subject to their control; to purchase its bonds at a price not more than the principal amount therof and accrued interest, all bonds so purchased to be cancelled.

(6) To exercise all or any part or combination of powers herein granted.

§ 21. *Rural Housing Projects.* County Housing Commissions and Regional Housing Commissions are specifically empowered and authorized to borrow money, accept grants and exercise their other powers to provide housing for farmers of low income. In connection with such projects, any Housing Commission may enter into such leases or purchase agreements, accept such conveyances and rent or sell dwell-

ings forming part of such projects to or for farmers of low income, as such Housing Commission deems necessary in order to assure the achievement of the objectives of this Act. Such leases, agreements or conveyances may include such covenants as the Housing Commission deems appropriate regarding such dwellings and the tracts of land described in any such instrument, which covenants shall be deemed to run with the land where the Housing Commission deems is necessary and the parties to such instrument so stipulate. Nothing in this section shall limit any other powers of any Housing Commission.

§ 22. *Farmers of Low Income Defined.* "Farmers of low income," as used in this Act, shall mean persons or families who at the time of their admission to occupancy in a dwelling of a Housing Commission:

(1) Live under unsafe or insanitary housing conditions;

(2) Derive their principal income from operating or working upon a farm; and

(3) Had an aggregate average annual net income for the three years preceding their admission that was less than the amount determined by the Housing Commission to be necessary, within its area of operation, to enable them, without financial assistance, to obtain decent, safe and sanitary housing, without overcrowding.

§ 23. *Tenant Selection.* Except with regard to housing for farmers of low income, a Housing Commission shall be subject to the same limitations and restrictions on rentals and tenant selection which are applicable to Housing Commissions created for cities under the Housing Commission Act.

§ 24. *Condemnation.* A Commission shall have the right to acquire by condemnation any real property which it may deem necessary for its purposes under this Act after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such

purposes. Proceedings for such condemnation shall be in the circuit court of the county in which the property lies, and shall be conducted in the name of the Commission by the attorney designated by the Commission, and the judgment of the court shall vest title to the property condemned in the Commission. In all other respects, the form and manner of the proceedings shall be the same as that provided for the condemnation of land for road purposes by fiscal courts.

§ 25. *Bonds.* (1) A Commission shall have power to issue bonds from time to time in its discretion, for any of its corporate purposes. A Commission shall also have power to issue refunding bonds for the purpose of paying or retiring bonds previously issued by it.

(2) A Commission may issue such tyes of bonds as it may determine, including (without limiting the generality of the foregoing) bonds on which the principal and interest are payable:

(a) Exclusively from the income and revenues of the housing project financed with the proceeds of such bonds;

(b) Exclusively from the income and revenues of certain designated housing projects whether or not they are financed in whole or in part with the proceeds of such bonds; or

(c) From its revenues generally.

(3) Any such bonds may be additionally secured by a pledge of any grant or contributions from the Federal Government or other source, or a pledge of any income or revenues of the Commission, or a mortgage of any housing project, projects or other property of the Commission.

(4) In connection with the issuance of bonds or the incurring of obligations under leases and in order to secure the payment of such bonds or obligations, a Housing Commission (including any Housing Commission created pursuant to the Municipal Housing Commission Act), in addition to its other powers, shall have power to agree to sell a project or projects,

and to make and enter into such covenants and conditions and to do any and all such acts and things as may be necessary or desirable in order to secure its bonds, or, in the discretion of said Commission, as will tend to make the bonds more marketable.

(5) In connection with the issuance of bonds or the incurring of other obligations, a Regional Housing Commission may covenant as to limitations on its right to adopt resolutions relating to the increase or decrease of its area of operation.

§ 26. Neither the commissioners nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of a Commission (and such bonds and obligations shall so state on their face) shall not be a debt of the city, the county, the Commonwealth or any political subdivision thereof and neither the city or the county, nor the Commonwealth or any political subdivision thereof shall be liable thereon, nor in any event shall such bonds or obligations be payable out of any funds or properties other than those of the Commission. The bonds shall not constitute an indebtness within the meaning of any constitutional or statutory debt limitation or restriction. Bonds of a Commission are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes.

§ 27. *Form and Sale of Bonds.* (1) Bonds of a Commission shall be authorized by its resolution and may be issued in one or more series and shall bear such date or dates, mature as such time or times, bear interest at such rate or rates not exceeding six per centum (6%) per annum, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with

or without premium) as such resolution, its trust indenture or mortgage may provide.

(2) The bonds may be sold at public or private sale at not less than par.

(3) In case of any of the commissioners or officers of the Commission whose signatures appear on any bonds or coupons shall cease to be such commissioners or officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if they had remained in office until such delivery. Any bonds issued pursuant to this Act shall be fully negotiable.

(4) If action or proceedings involving the validity or enforcability of any bond of a Commission or the security therefor, any such bond reciting in substance that it has been issued by the Commission to aid in financing a housing project to provide dwelling accommodations for persons of low income shall be conclusively deemed to have been issued for a housing project of such character and said project shall be conclusively deemed to have been planned, located and constructed in accordance with the purposes and provisions of this Act.

§ 28. *Housing Commission Operations in Other Municipalities.* In addition to its other powers, a Housing Commission created for a city pursuant to the Municipal Housing Commision Act may exercise any or all of its powers within the territorial boundaries of any other city for the purpose of planning, undertaking, financing, constructing and operating a housing project or projects within the other city, if a resolution has been adopted by the governing body of the other city in which such Commission is to exercise its powers and by the Housing Commission of the other city (if one has been theretofore created for such other city) declaring (upon findings prescribed in § 8) that there is a need for the Housing Commission of the aforesaid city to exercise its powers within the other city. The governing body of the other city shall not adopt a resolution pursuant to this Section unless a public hearing has first been held. The clerk

of such city shall give notice of the time, place and purpose of the public hearing at least ten days prior to the date on which the hearing is to be held, in a newspaper published in such city, or if there is no newspaper published in such city, then in a newspaper published in the state and having a general circulation in such city. Upon the date fixed for such public hearing an opportunity to be heard shall be granted to all residents of such city and to all other interested persons.

§ 29. *Cooperation of Commissions.* Any two or more Commissions (including any Housing Commission created under the Municipal Housing Commission Act) may join or cooperate with one another in the exercise, either jointly or otherwise, of any or all their powers for the purpose of financing (including the issuance of bonds, notes or other obligations and giving security therefor), planning, undertaking, owning, constructing, operating or contracting with respect to a housing project or projects located within the area of operation of any one or more said Commission. For such purpose a Commission may by resolution prescribe and authorize any other Housing Commission or Commissions, so joining or cooperating with it, to act on its behalf with respect to any or all of such powers. Any Commissions joining or cooperating with one another may by resolutions appoint from among the commissioners of such Commissions and executive committee with full power to act on behalf of such Commissions with respect to any or all of their powers, as prescribed by resolutions of such Commissions.

§ 30. *Aid from Federal Government.* In addition to the powers conferred upon a Commission by other provisions of this Act, a Commission is empowered to borrow money or accept contributions, grants or other financial assistance from the Federal government for or in aid of any housing project, to take over or lease or manage any housing project or undertaking constructed or owned by the Federal government, and to these ends, to comply with such conditions and enter into

such mortgages, trust indentures, leases or agreements as may be necessary, convenient or desirable. It is the purpose and intent of this Act to authorize every Housing Commission to do any and all things necessary or desirable to secure the financial aid or cooperation of the Federal government in the undertaking, construction, maintenance or operation of any housing project by such Commission.

§ 31. *Agreement to Sell as Security for Obligations to Government.* In any contract or amendatory or superseding contract for a loan and annual contributions heretofore or hereafter entered into between a Housing Commission (including any Housing Commission created under the Municipal Housing Commission Act) and the Federal Government with respect to any housing project undertaken by said Housing Commission, any such Housing Commission is authorized to make such covenants (including covenants with holders of obligations of said Commission issued for purposes of the housing project involved), and to confer upon the Federal Government such rights and remedies, as said Housing Commission deems necessary to assure the fulfillment of the purposes for which the housing project was undertaken. In any such contract, the Housing Commission may, notwithstanding any other provisions of law, agree to sell and convey the housing project (including all lands appertaining thereto) to which such contract relates to the Federal Government upon the occurrence of such conditions, or upon such defaults on obligations for which any of the annual contributions provided in said contract are pledged, as may be prescribed in such contract, and at a price (which may include the assumption by the Federal Government of the payment, when due, of the principal of and interest on outstanding obligations of the Housing Commission issued for purposes of the housing project involved) determined as prescribed therein and upon such other terms and conditions as are therein provided. Any such Housing Commission is hereby authorized to enter into such supplementary contracts, and to execute such con-

veyances, as may be necessary to carry out the provisions hereof. Notwithstanding any other provisions of law, any contracts or supplementary contracts or conveyances made or executed pursuant to the provisions of this section shall not be or constitute a mortgage within the meaning or for the purpose of any of the laws of this Commonwealth.

§ 32. *Repeal.* Chapter 23 of the Acts of 1940 is hereby repealed.

§ 33. *Emergency.* Whereas it is necessary to authorize immediately the creation of Housing Commissions by counties and by groups of counties and groups of cities to undertake housing projects for persons of low income, especially in rural areas and in defense areas of the Commonwealth, and whereas there is no adequate law in this Commonwealth authorizing the creation of such Commissions with power to obtain financial assistance from the Federal Government, an emergency is declared to exist, and this Act shall become effective immediately after its passage and approval by the Governor.

§ 34. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, upon the taking effect of the Kentucky Revised Statutes, the numbers "KRS 80.010 to 80.250" shall b substituted for "the Municipal Housing Commission Act" wherever those words appear in this Act and KRS 80.020, 80.030, 80.040, 80.050, 80.060, 80.090, 80.150, and 80.190 shall stand amended to read as follows:

80.020 Cities of all classes **may acquire,** establish and operate, within their limits, low-cost housing projects, under the provisions of this chapter, for the purpose of providing adequate and sanitary living quarters for individuals or families. They may create city housing commissions and they and the commissions created by them, shall have all powers necessary and appropriate to engage in low-cost housing and slum clearance projects.

80.030. A city housing commission in cities of the first five classes shall consist of the mayor, ex officio, and four per-

sons appointed by him with the approval of the city legislative body. A city housing commission in cities of the sixth class shall consist of the chairman of the board of trustees, ex officio, and four persons appointed by him with the approval of the board of trustees

80.040. Each person appointed to a city housing commission shall be at least twenty-five years of age and a bona fide resident of the city for which he was appointed for at least one year preceding the appointment. No officer or employe of the city, whether holding a paid or unpaid office, is eligible to hold an appointment on the housing commission. No more than two appointees on any city housing commission shall be affliated with the same political party. Appointees to a city housing commission shall be originally appointed for terms of four years. Upon the expiration of the term of the first appointees, their successors shall be appointed for terms of one, two, three and four years, respectively, and upon the expiration of the term of each of the second group of appointees his successor shall be appointed for a term of four years. Vacancies shall be filled for unexpired terms in the same manner as the original appointment.

80.050. The persons appointed as provided in KRS 80.030 and 80.040 shall constitute a body corporate in the name of Municipal Housing Commission, with power to contract and be contracted with, to sue or be sued, and to adopt a seal and alter it at will. Each commission may establish bylaws, rules and regulations for its own government. Each commission shall elect a chairman and a vice chairman from its members and a secretary and treasurer who need not be a member of the commission. The duties of the offices of secretary and treasurer may be performed by the same person.

80.060. Each member of a housing commission, except an ex officio member, shall receive compensation either as a salary or as payment for meetings attended. The compensation of members of a housing commission shall be fixed by the

legislative body of the city. The compensation of the chairman of a housing commission shall not exceed two thousand dollars in any year and that of any other member shall not not exceed four hundred dollars in any year. The housing commission shall fix the compensation of the secretary and treasurer, but the city legislative body may fix or limit the salary.

80.090. *Removal of member for incompetency, neglect or malfeasance.* Whenever it appears to the appointing officer that a member of a housing commission appointed by him is incompetent or guilty of neglect of duty or malfeasance, the appointing officer shall require the member to appear before him to show cause why he should not be removed from office. At least fifteen days' written notice of the hearing shall be given to the member whose conduct is in question and to all other members of the commission. At the hearing the member may be represented by counsel and may appear personally and present such pertinent evidence as he wishes or as the appointing officer requests. If after the hearing the appointing officer determines that a member has been incompetent or has been guilty of neglect of duty or malfeasance, he shall remove the member from the commission within seven days, and there shall be a vacancy of the office.

80.150. *Condemnation authorized; procedure.* If it becomes necessary to condemn property for the purpose of constructing any low-cost housing project, or securing right of ways leading thereto, the commission may, by resolution reciting the need, order the condemnation of any land or improvement or interest in land, that it deems necessary.

Proceeding for the condemnation shall be in the circuit court of the county in which the property lies, and shall be conducted in the name of the commission. The city attorney shall conduct the proceedings, for the commission. The judgment of the court shall vest title to the property condemned in the commission. In all other respects the form and manner of the proceedings shall be the same as that provided in KRS

416.120. No payment or award in any condemnation proceedings, or for the cost or expense of the proceedings, shall be made except from funds provided under the authority of this chapter.

80.190. *Project not to be operated for profit.* The commission shall manage and operate its housing projects in an efficient manner so as to enable it to fix rentals for dwelling accommodations at the lowest possible rate consistent with its providing decent, safe and sanitary dwelling accommodations, and no commission shall construct or operate any project for profit, or as a source of revenue to the city.

§ 35. If the Kentucky Revsied Statutes are enacted at the present session of the General Assembly, this Act shall be treated as repealing KRS 80.100, 80.210, 80.220 and 80.260, regardless of the date of enactment or taking effect of the Kentucky Revised Statutes.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | John Henry Cox | Jerry F. Howell |
| Robert E. Barry | Rev. W. W. Crouch | Crow Jarvis |
| W. T. Beard | Guthrie F. Crowe | William L. Jones |
| Robert E. Beatty | Pink G. Curd | John S. Juett |
| Rell Bevins | Forest C. Easley | W. A. Lamkin |
| Douglas T. Bolling | T. P. Fitzpatrick | A. L. Love |
| H. M. Brock, Jr. | W. W. Freeman | Harry K. Lowman |
| Gus A. Brooks | Joseph J. Grace | Hugh D. Lyon |
| Sherman E. Carter | Bert Hall | H. McCartney |
| C. L. Clayton | Joe Higgins | Norris McPherson |
| Oris Cooper | E. R. Hilton | Dr. Wm. C. Mann |
| M. A. Cornett | Clyde S. Howard | Ed. Marcum |

| | | |
|---|---|---|
| C. C. May | B. W. Porter | Charles L. Spilman |
| J. Milton Mefford | Kleber F. Price | James D. Stacey |
| Sam Milam | L. Allen Rhoads | R. C. Stephenson |
| D. J. Moore | Dr. J. J. Rice | Thomas M. Swope |
| J. Lee Moore | Wade H. Riley | C. W. Taylor |
| C. E. Montgomery | Dr. M. M. Robinson | Egbert Taylor |
| E. R. Morlidge | Dr. K. N. Salyer | Roy L. Taylor |
| C. Sid Nabb | Carl Scheben | Rev. H. Tinsley |
| Coy Nevitt | Leon J. Shaikun | Erna E. Tyra |
| Robert Nicholas | Faust Y Simpson | S. J. Wagner |
| H. C. Patterson | Clyde Smith | H. A. Ward |
| Paul Pelfrey | Otto Smither | Henry Ward |

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Those who voted in the negative were—

Fuller Harding L. D. Moore —2

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 310. An Act to declare valid and legal the creation and establishment of Municipal Housing Commissions, all bonds, notes, contracts, agreements, obligations and undertakings of such Housing Commissions, and all proceedings, acts and things heretofore undertaken, performed or done with reference thereto.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. *Validation of Creation of Municipal Housing Commissions.* The creation and establishment of Municipal

Housing Commissions pursuant to the provisions of the Municipal Housing Commission Act (Chapter 113 of the Acts of the General Assembly of 1934, as amended) together with all proceedings, acts and things heretofore undertaken, performed or done with reference thereto, are hereby validated, ratified, confirmed, approved and declared legal in all respects notwithstanding any defect or irregularity thereon or any want of statutory authority.

§ 2. *Validation of Contracts and Undertakings.* All contracts, agreements, obligations and undertakings of Municipal Housing Commissions heretofore entered into relating to financing or aiding in the development, construction, maintenance or operation of any housing project or projects or to obtain aid therefor from the United States Housing Authority, including (without limiting the generality of the foregoing) loan and annual contributions contracts and leases with the United States Housing Authority, agreements with cities, counties or other public bodies (including agreements which are pledged or authorized to be pledged for the protection of the holders of any notes or bonds issued by Municipal Housing Commissions or which are otherwise made a part of the contract with such holders of notes or bonds) relating to cooperation and contributions in aid of housing projects, payments (if any) in lieu of taxes, furnishing of municipal services and facilities, and the elimination of unsafe and insanitary dwellings, and contracts for the construction of housing projects, together with all proceedings, acts and things heretofore undertaken, performed or done with reference thereto, are hereby validated, ratified, confirmed, approved and declared legal in all respects notwithstanding any defect or irregularity therein or any want of statutory authority.

§ 3. *Validation of Notes and Bonds.* All proceedings, acts and things heretofore undertaken, performed or done in or for the authorization, issuance, execution and delivery

of notes and bonds by Municipal Housing Commissions for the purpose of financing or aiding in the development or construction of a housing project or projects and all notes and bonds heretofore issued by Municipal Housing Commissions are hereby validated, ratified, confirmed, approved and declared legal in all respects, nothwithstanding any defect or irregularity therein or any want of statutory authority.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Joe Higgins | E. R. Morlidge |
| Robert E. Barry | E. R. Hilton | C. Sid Nabb |
| W. T. Beard | Clyde S. Howard | Coy Nevitt |
| Robert E. Beatty | Jerry F. Howell | Robert Nicholas |
| Rell Bevins | Crow Jarvis | H C. Patterson |
| Douglas T. Bolling | William L. Jones | Paul Pelfrey |
| H. M. Brock, Jr. | John S. Juett | B. W. Porter |
| Gus A. Brooks | W. A. Lamkin | Kleber F. Price |
| Sherman E. Carter | A. L. Love | L. Allen Rhoads |
| C. L. Clayton | Harry K. Lowman | Dr. J. J. Rice |
| Oris Cooper | Hugh D. Lyon | Wade H. Riley |
| M. A. Cornett | H. McCartney | Dr. M. M. Robinson |
| John Henry Cox | Norris McPherson | Dr. K. N. Salyer |
| Rev. W. W. Crouch | Dr. Wm. C. Mann | Carl Scheben |
| Guthrie F. Crowe | Ed. Marcum | Leon J. Shaikun |
| Pink G. Curd | C. C. May | Faust Y. Simpson |
| Forest C. Easley | J. Milton Mefford | Clyde Smith |
| T. P. Fitzpatrick | Sam Milam | Otto Smither |
| W. W. Freeman | D. J. Moore | Charles L. Spilman |
| Joseph J. Grace | J. Lee Moore | James D. Stacey |
| Bert Hall | C. E. Montgomery | R. C. Stephenson |

| | | |
|---|---|---|
| Thomas M. Swope | Roy L. Taylor | S. J. Wagner |
| C. W. Taylor | Rev. H. Tinsley | H. A. Ward |
| Egbert Taylor | Erna E. Tyra | Henry Ward |

—72

Those who voted in the negative were—

| | | |
|---|---|---|
| Fuller Harding | L. D. Moore | —2 |

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, The House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 311. An Act to authorize Housing Commissions, and any cities creating them, to undertake the development or administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national-defense activities who would not otherwise be able to secure such dwellings within the vicinity thereof; to limit the initiation of the development of such projects until December 31, 1944; to authorize Housing Commissions to cooperate with or act as agent of the Federal Government in the development and administration of such projects of the Federal Government, to acquire or lease such projects and to sell certain projects to the Federal Government; to authorize public bodies to assist such projects of Housing Commissions and of the Federal Government; to make obligations issued for such projects of Housing Commissions legal investments and security for deposits; and to declare an emergency.

WHEREAS, it is hereby found and declared that the national-defense program involves large increases in the military forces and personnel in this Commonwealth, a great

increase in the number of workers in already established manufacturing centers and the bringing of a large number of workers and their families to new centers of defense industries in the Commonwealth; that there is an acute shortage of safe and sanitary dwellings available to such persons and their families which impedes the national-defense program; that it is imperative that action be taken immediately to assure the availability of safe and sanitary dwellings for such persons to enable the rapid expansion of national-defense activities in this Commonwealth and to avoid a large labor turnover in defense industries which would seriously hamper their production; that the provisions hereinafter enacted are necessary to assure the availability of safe and sanitary dwellings for persons engaged in national-defense activities which otherwise would not be provided at this time; and that such provisions are for the public use and purpose of facilitating the national-defense program; and

WHEREAS, it is further declared to be the purpose of this Act to authorize Housing Commissions to do any and all things necessary or desirable to secure the financial aid of the Federal Government, or to cooperate with or act as agent of the Federal Government, in the expeditious development and the administration of projects to assure the availability when needed of safe and sanitary dwellings for persons engaged in national-defense activities; now therefore:

Said bill is as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. (1) *Definitions and construction.* As used in this Act:

(a) "Administration" means any and all undertakings necessary for management, operation or maintenance, in connection with any project, and shall include the leasing of any projects, in whole or in part, from the Federal Government.

(b) "Development" means any and all undertakings necessary for the planning, land acquisition, demolition, financing, construction or equipment in connection with a project (including the negotiation or award of contracts therefor) and shall include the acquisition of any project (in whole or in part) from the Federal Government.

(c) "Federal Government" means the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

(d) "Housing Commission" means any Housing Commission established pursuant to 1934,c.113, or 1940,c.23, or H. B. No. ..... of the General Assembly of 1942 and shall include the city which established the Housing Commission pursuant to 1934,c.113.

(e) "Persons engaged in national-defense activities" includes, without limiting the generality thereof, enlisted men in the military and naval services of the United States; employees of the War and Navy Departments assigned to duty at military or naval reservations posts or bases; workers engaged or to be engaged in industries connected with and essential to the national-defense programs; and the families of the aforesaid persons who are living with them.

(f) "Persons of low income" means persons or families who lack the amount of income which is necessary, as determined by the Housing Commission undertaking the housing project, to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

(2) The development of a project shall be deemed to be "initiated", within the meaning of this Act, if a Housing Commission has issued any bonds, notes or other obligations with respect to financing the development of such project of the Commission, or has contracted with the Federal Government with respect to the exercise of powers hereunder in the development of such project of the Federal Government for which an allocation of funds has been made prior to December 31, 1944.

(3) The powers conferred by this Act shall be in addition and supplemental to the powers conferred by any other law, and nothing contained herein shall be construed as amending or extending any other law.

§ 2. *Defense Housing by Housing Commissions.* Any Housing Commission may undertake the development or administration, or both, of projects to assure the availability of safe and sanitary dwellings for persons engaged in national-defense activities whom the Housing Commission determines would not otherwise be able to secure safe and sanitary dwellings within the vicinity thereof, but no Housing Commission shall initiate the development of any such project pursuant to this Act after December 31, 1944.

§ 3. In the ownership, development or administration of such projects, a Housing Commission shall have all the right, powers, privileges and immunities that such Commission has under any provision of law relating to the ownership, development or administration of slum clearance and housing projects for persons of low income, in the same manner as though all the provisions of law applicable to slum clearance and housing projects for persons of low income were applicable to projects developed or administered to assure the availability of safe and sanitary dwellings for persons engaged in national-defense activities as provided in this Act; except that during the period (herein called the "National-Defense Period") that a Housing Commission finds (which finding shall be conclusive in any suit, action or proceeding) that within its area of operation, or any part thereof, there is an acute shortage of safe and sanitary dwellings which impedes the national-defense program in this state and that the necessary safe and sanitary dwellings would not otherwise be provided when needed for persons engaged in national-defense activities, the Housing Commission (and any Housing Commission cooperating with it) shall not be subject to the limitations provided in 1934,c.113, § 11, nor the restrictions on the making of construction contracts contained

in 1934,c.113, § 4, nor the limitations on tenant selection contained in clause (c) of 1940,c.26, § 2, clause (c) of 1940,c.23, § 14, and Section 15 of H. B. No. ..... of the General Assembly of 1942, with respect to any project developed or administered in such area pursuant to this Act with the financial aid of the Federal Government (or as agent for the Federal Government as hereinafter provided).

§ 4. In the development or the administration of projects under this Act or in otherwise carrying out the purposes hereof, a Housing Commission of a city may exercise its powers within its territorial boundaries and within an area ten miles from its boundaries excluding the area within the territorial boundaries of any other city which has heretofore established a Housing Commission. After the National-Defense Period, any such projects owned and administered by a Housing Commission shall be administered for the purposes and in accordance with the provisions of 1934,c.113, or 1940,c.23, or H. B. No. ..... of the General Assembly of 1942, as the case may be, except as otherwise provided in Section 3.

§ 5. *Acting for Federal Government on Defense Housing.* A Housing Commission may exercise any or all of its powers for the purpose of cooperating with, or acting as agent for, the Federal Government in the development or administration of projects by the Federal Government to assure the availability of safe and sanitary dwellings for persons engaged in national-defense activities and may undertake the development or administration of any such project for the Federal Government. In order to assure the availability of safe and sanitary housing for persons engaged in national-defense activities, a Housing Commission may sell to the Federal Government any housing project, or part thereof, developed for persons of low income but not yet occupied by such persons; such sale shall be at such price and upon such terms as the Housing Commission prescribes and shall include

provision for the satisfaction of all debts and liabilities of the commission relating to such project.

§ 6. *Cooperation by Public Bodies on Defense Housing.* Any Public body, as defined in 1940,c.24, § 3, shall have the same rights and powers to cooperate with Housing Commissions, or with the Federal Government, with respect to the development or administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national-defense activities that such public body has pursuant to such Act for the purpose of assisting the development or administration of slum clearance or housing projects for persons of low income, and any such public body may furnish the aforesaid cooperation to such projects located within the territorial boundaries of such public body or within ten miles thereof.

§ 7. *Bonds for Defense Housing Legal Investments.* Bonds or other obligations issued by a Housing Commission for a project developed or administered pursuant to this Act shall be security for public deposits and legal investments to the same extent and for the same persons, institutions, associations, corporations, bodies and officers as bonds or other obligations issued pursuant to 1934,c.113, or 1940,c.23, or H. B. No. ..... of the General Assembly of 1942, for the development of a slum clearance or housing project for persons of low income.

§ 8. *Removal of Restrictions for Defense Housing.* This Act shall constitute an independent authorization for a Housing Commission to undertake the development or administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national-defense activities as provided in this Act and for a Housing Commission to cooperate with, or act as agent for, the Federal Government in the development or administration of similar projects by the Federal Government. In acting under this authorization, a Housing Commission shall not be subject to

any limitations, restrictions or requirements of other laws, except those relating to land acquisition, prescribing the procedure or action to be taken in the development or administration of any public works, including slum clearance and housing projects for persons of low income or undertakings or projects of public corporations or cities or other political subdivisions or agencies of the state. A Housing Commission may do any and all things necessary or desirable to cooperate with, or act as agent for, the Federal Government, or to secure financial aid, in the expeditions development or in the administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national-defense activities and to effectuate the purposes of this Act.

§ 9. *Emergency.* Whereas, it is necessary to immediately authorize Housing Commissions to undertake projects to assure the availability of dwelling accommodations for persons engaged in national-defense activities to facilitate the national-defense program in the Commonwealth, an emergency is declared to exist, and this Act shall become effective immediately after its passage and approval by the Governor.

§ 10. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, upon the taking effect of the Kentucky Revised Statutes, the number "KRS 80.240" shall be substituted for "1934,c.113,§ 11," and the number "KRS 80.130" shall be substituted for "1934,c.113, § 4", and the number "subsection (3) of KRS 80.200" shall be substituted for "clause (c) of 1940,c.26, § 2, clause (c) of 1940,c.23, § 14," in section three of this Act.

§ 11. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, upon the taking effect of the Kentucky Revised Statutes, the numbers "KRS 80.010 to 80.260" shall be substituted for "1934,c.113, or 1940,c.23" in section four of this Act.

§ 12. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, upon the taking effect of the Kentucky Revised Statutes, the numbers "subsection (3) of KRS 80.010" shall be substituted for 1940,c.24, § 3 in section six of this Act.

§ 13. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, upon the taking effect of the Kentucky Revised Statutes, the numbers "KRS 80.010 to 80.260" shall be substituted for "1934,c.113, or 1940,c.23," in section seven of this Act.

§ 14. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, upon the taking effect of the Kentucky Revised Statutes, the numbers "KRS 80.010 to 80.260" shall be substituted for "1934,c.113 or 1940,c.23" and for "1934,c.13" where they appear in section one of this Act.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | M. A. Cornett | E. R. Hilton |
| Robert E. Barry | John Henry Cox | Clyde S. Howard |
| W. T. Beard | Rev. W. W. Crouch | Jerry F. Howell |
| Robert E. Beatty | Guthrie F. Crowe | Crow Jarvis |
| Rell Bevins | Pink G. Curd | William L. Jones |
| Douglas T. Bolling | Forest C. Easley | John S. Juett |
| H. M. Brock, Jr. | T. P. Fitzpatrick | W. A. Lamkin |
| Gus A. Brooks | W. W. Freeman | A. L. Love |
| Sherman E. Carter | Joseph J. Grace | Harry K. Lowman |
| C. L. Clayton | P. Bert Hall | Hugh D. Lyon |
| Oris Cooper | Joe Higgins | H. McCartney |

| | | |
|---|---|---|
| Norris McPherson | Paul Pelfrey | Charles L. Spilman |
| Dr. Wm. C. Mann | B. W. Porter | James D. Stacey |
| Ed. Marcum | Kleber F. Price | J. Claude Stacy |
| C. C. May | L. Allen Rhoads | Thomas M. Swope |
| J. Milton Mefford | Dr. J. J. Rice | C. W. Taylor |
| Sam Milam | Wade H. Riley | Egbert Taylor |
| D. J. Moore | Dr. M. M. Robinson | Roy L. Taylor |
| J. Lee Moore | Dr. K. N. Salyer | Rev. H. Tinsley |
| C. E. Montgomery | Carl Scheben | John L. Trumbo |
| E. R. Morlidge | Leon J. Shaikun | J. Wood Vance |
| C. Sid Nabb | Faust Y. Simpson | C. R. Walden |
| Robert Nicholas | Clyde Smith | H. A. Ward |
| H. C. Patterson | Otto Smither | Henry Ward |

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Those who voted in the negative were—

| | | |
|---|---|---|
| Fuller Harding | L. D. Moore | Coy Nevitt |

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Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 312. An Act authorizing cities to adopt ordinances relating to the repair, closing and demolition of dwellings unfit for human habitation; providing for the remedies and procedure in connection with action taken under such ordinances and declaring an emergency.

WHEREAS, it is hereby found and declared that the existence and occupation of dwellings in cities of this Commonwealth which are unfit for human habitation are inimical to the welfare, and dangerous and injurious to the health,

safety and morals of the people of this Commonwealth, and that a public necessity exists for the repair, closing or demolition of such dwellings; now, therefore:

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. (1) *Definitions and Construction.* As used in this Act, unless the context requires otherwise:

(a) "Dwelling" means any building, or structure, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

(b) "Governing body" means the general council, board, or commissioners, or other legislative body, charged with governing a city.

(c) "Public officer" means the officer or officers who are authorized by ordinances adopted hereunder to exercise the powers prescribed by such ordinances and by this Act.

(d) "Public authority" means any Housing Commission or any officer who is in charge of any department or branch of the government of the city, county or state relating to health, fire, building regulations, or to other activities concerning dwellings in the city.

(e) "Owner" means the holder of the title in fee simple and every mortgagee of record.

(f) "Parties in interest" means all individuals, associations and corporations who have interests of record in a dwelling and any who are in possession thereof.

(2) The powers conferred upon cities by this Act shall be in addition and supplemental to the powers conferred by any other law.

§ 2. *Unfit Dwellings in Municipalities—Exercise of Police Power Authorized.* Whenever any city finds that there exist in such city dwellings which are unfit for human

habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwelling unsafe or insanitary, or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of the city, the city may exercise its police powers to repair, close or demolish such dwellings in the manner provided in this Act.

§ 3. *Ordinance Authorized as to Repair.* Upon the adoption of an ordinance finding that dwelling conditions of the character described in Section 2 exist within a city, the governing body of the city may adopt ordinances relating to the dwellings within the city which are unfit for human habitation. Such ordinances shall provide that a public officer be designated or appointed to exercise the powers prescribed by the ordinances, and shall include the provisions of §§ 4 to 7 of this Act.

§ 4. Whenever a petition is filed with the public officer by a public authority or by at least five residents of the city charging that any dwelling is unfit for human habitation or whenever it appears to the public officer (on his own motion) that any dwelling is unfit for human habitation, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling a complaint stating the charges in that respect. The complaint shall state: That a hearing will be held before the public officer (or his designated agent) at a place therein fixed not less than ten days nor more than thirty days after the serving of the complaint; that the owner and parties in interest may file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

§ 5. If, after the notice and hearing, the public officer determines that the dwelling under consideration is unfit for human habitation he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order requiring the owner:

(1) To the intent and within the time specified in the order, to repair, alter or improve the said dwelling to render it fit for human habitation, or, at the option of the owner, to vacate and close the dwelling as a human habitation if the repair, alteration or improvement of the dwelling can be made at a cost that is not more than 50% of the value of the dwelling; or

(2) Within the time specified in the order, to remove or demolish the said dwelling if the repair, alteration or improvement of the dwelling cannot be made at a cost that is not more than 50% of the value of dwelling.

§ 6. (1) If the owner fails to comply with an order to repair, alter or improve or, at the option of the owner, to vacate and close the dwelling, the public officer may cause the dwelling to be repaired, altered or improved, or to be vacated and closed. The public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful."

(2) If the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause such dwelling to be removed or demolished.

(3) The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition shall be a lien upon the real property upon which such cost was incurred. If the dwelling is removed or demolished by the public officer, he shall sell the materials of the dwelling and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be

deposited in the circuit court by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the persons found to be entitled thereto by final order or decree of such court.

§ 7. *Standards.* The public officer may determine that a dwelling is unfit for human habitation if he finds that conditions exist in such dwelling which are dangerous or injurious to the health, safety or morals of the occupants of such dwelling, the occupants of neighboring dwellings or other residents of the city. Such conditions may include the following (without limiting the generality of the foregoing): defects increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair, structural defects; uncleanliness. Additional standards to guide the public officer, or his agents, in determining the fitness of a dwelling for human habitation, may be provided by ordinance.

§ 8. *Service of Complaints and Orders.* Complaints or orders issued by a public officer pursuant to an ordinance adopted under this Act shall be served upon persons either personally or by registered mail, but if the whereabouts of such person is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two successive weeks in a newspaper printed and published in the city, or, in the absence of such newspaper, in one of general circulation in the city in which the dwellings are located. A copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order, and shall be recorded in the office of the circuit clerk of the county wherein the dwelling is located.

§ 9. *Remedies.* Any person affected by an order issued by the public officer may, within sixty days after the posting

and service of the order, petition the circuit court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may issue a temporary injunction restraining the public officer pending the final disposition of the cause. Hearings shall be had by the court on such petitions within twenty days, or as soon thereafter as possible. In all such proceedings the findings of the public officer as to facts, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court. The remedies herein provided shall be exclusive remedies and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of non-compliance by such person with any order of the public officer.

§ 10. *Additional Powers of Public Officer.* The governing body of the city may by ordinance authorize the public officer to exercise such powers as are necessary or convenient to carry out and effectuate the purposes and provisions of this Act, including the following powers in addition to others herein granted:

(1) To investigate the dwelling conditions in the city in order to determine which dwellings therein are unfit for human habitation;

(2) To administer oaths, affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purpose of making examination, but such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of the ordinance; and

(5) To delegate any of his functions and powers under the ordinance to such officers and agents as he designates.

§ 11. *Administration of Ordinance.* The governing body of any city adopting an ordinance under this Act shall as soon as possible thereafter prepare an estimate of the annual expenses or costs to provide the equipment, personnel and supplies necessary for periodic examinations and investigations of the dwellings in such city for the purpose of determining the fitness of the dwellings for human habitation and for the enforcement and administration of its ordinances adopted under this Act; and any such city may make such appropriations from its revenues as it may deem necessary for this purpose and may accept and apply grants or donations to assist it in carrying out the provisions of such ordinances.

§ 12. *Emergency.* Whereas the powers conferred hereby are urgent and necessary to enable cities to provide for the remedying or elimination of dwelling accommodations which are inimical to the welfare and dangerous and injurious to the health, safety and morals of the people of the Commonwealth, an emergency is declared to exist, and this Act shall become effective from and after its passage and approval.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Gus A. Brooks | Guthrie F. Crowe |
| Robert E. Barry | Sherman E. Carter | Pink G. Curd |
| W. T. Beard | C. L. Clayton | Forest C. Easley |
| Robert E. Beatty | Oris Cooper | T. P. Fitzpatrick |
| Rell Bevins | M. A. Cornett | W. W. Freeman |
| Douglas T. Bolling | John Henry Cox | Joseph J. Grace |
| H. M. Brock, Jr. | Rev. W. W. Crouch | Bert P. Hall |

| | | |
|---|---|---|
| Joe Higgins | Sam Milam | Leon J. Shaikun |
| E. R. Hilton | D. J. Moore | Faust Y. Simpson |
| Clyde S. Howard | J. Lee Moore | Clyde Smith |
| Jerry F. Howell | C. E. Montgomery | Otto Smither |
| Crow Jarvis | E. R. Morlidge | Charles L. Spilman |
| William L. Jones | C. Sid Nabb | James D. Stacey |
| John S. Juett | Coy Nevitt | J. Claude Stacy |
| W. A. Lamkin | Robert Nicholas | Thomas M. Swope |
| A. L. Love | H. C. Patterson | C. W. Taylor |
| Harry K. Lowman | Paul Pelfrey | Egbert Taylor |
| Hugh D. Lyon | B. W. Porter | Roy L. Taylor |
| H. McCartney | L. Allen Rhoads | Rev. H. Tinsley |
| Norris McPherson | Dr. J. J. Rice | John L. Trumbo |
| Dr. Wm. C. Mann | Wade H. Riley | J. Wood Vance |
| Ed. Marcum | Dr. M. M. Robinson | C. R. Walden |
| C. C. May | Dr. K. N. Salyer | H. A. Ward |
| J. Milton Mefford | Carl Scheben | Henry Ward |

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Those who voted in the negative were—

| | | |
|---|---|---|
| Fuller Harding | L. D. Moore | —2 |

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the following bills and resolutions were introduced, viz.:

By Mr. Henry Ward.

H. B. 340. An Act relating to licenses for race tracks.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 4223b-7 of Carroll's Kentucky Statutes, 1936 Edition, is amended to read as follows:

Any such race track located within a county with a population of two hundred thousand or over shall pay for each day upon which races are conducted at such track for any stake, purse or prize a license tax of twenty-five hundred dollars per day. Any such track located within a county having a population of not less than one hundred thousand and not more than two hundred thousand shall pay for each day upon which races are conducted at said track for any stake, purse or prize a license tax of one thousand dollars per day. Any such race track located in any other county shall pay for each day upon which races are conducted for any stake, purse or prize a license tax of five hundred dollars per day.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of subsection (2) of KRS 137.170, and thereafter be treated as an amendment to subsection (2) of KRS 137.170 rather than an amendment to § 4223b-7 of Carroll's Statutes.

§ 3. Inasmuch as it is necessary that the license tax on race tracks should be fixed before the opening of the racing season, and in the regular course this act would not become effective before that time, an emergency is hereby declared to exist and this act shall take effect upon its passage and approval by the Governor.

By Mr. Barry.

H. B. 341. An Act relating to the employment and compensation of officers and employees in certain counties.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The following sections of Carroll's Kentucky Statutes, 1936 Edition, are hereby repealed, to-wit:

136a-2, 136a-6, 537b-5, 537b-6, 907b-4, 911, 1020b-2, 1061a-4, 1083a-4, 1851b-3.

Section 2. The following sections of Carroll's Kentucky Statutes, Baldwin's Kentucky Statutes Service, 1938 Edition, are hereby repealed, to-wit: 136b-2 and 2237a-6.

Section 3. § 1 of Chapter 146 of the Acts of 1940, § 2 of Chapter 55 of the Acts of 1940 and § 2 of Chapter 135 of the Acts of 1940, compiled as §§ 331e-3, 1055a-1 and 1851b-12 of Carroll's Kentucky Statutes, Baldwin's Kentucky Statutes Service, 1940 Edition, are hereby repealed.

Section 4. Each of the foregoing Statute sections referred to in Sections 1, 2 and 3 of this Act are hereby amended and reenacted so that when thus amended and reenacted, they shall read as follows:

Sec. 136a-2—Appointment; term; compensation—The first assistant County Attorney shall be appointed by the County Attorney for a term of four years, but shall be subject to removal at any time by the County Attorney. His salary shall be fixed by the Fiscal Court of the County and shall be payable out of the county levy in equal semi-monthly installments.

Sec. 136a-6—Appointment; term; compensation—The second Assistant County Attorney shall be appointed by the County Attorney for a term of four years, but shall be subject to removal at any time by the County Attorney. His salary shall be fixed by the Fiscal Court of the County and shall be payable out of the county levy in equal semi-monthly installments.

Sec. 136b-2—Salary—The salary of said stenographer shall be fixed by the Fiscal Court of the County and shall be paid out of the county levy in equal monthly installments.

Sec. 331e-3—Probation Officers; compensation—(1) The County Courts of the several counties of this state may appoint or designate one or more discreet persons of good moral character to serve as volunteer probation officers during the pleasure of the Court without any compensation

whatsoever. In counties having a city of the second class, or a city of a population of more than 20,000 and not exceeding 100,000 as determined by the last preceding federal census, the County Court may appoint one probation officer, who shall be designated as Chief Probation Officer, and who shall receive a salary of not exceeding twenty-four hundred dollars per annum, to be fixed by the County Judge; one or more assistant probation officers, one of whom shall receive a salary of not exceeding eighteen hundred dollars per annum, and all other assistants so appointed shall receive a salary not exceeding one thousand dollars per annum, such salaries to be fixed by the Judge of the County Court.

(2) In counties having a city of the first class, the County Court may appoint one probation officer, who shall be designated as Chief Probation Officer, and who shall receive a salary to be fixed by the Fiscal Court; and one or more assistant probation officers, who shall receive salaries to be fixed by the Fiscal Court, all of such salaries to be payable in semi-monthly installments out of the county levy.

(3) The salaried probation officers appointed pursuant to this section shall be allowed their actual and necessary expenses incurred in the performance of their duties; said salaries and expenses to be paid as provided herein. All such salaried probation officers shall have all the powers of sheriffs and county patrolmen in making arrests.

Sec. 537b-5—Salary—The salary of said deputy or clerk shall be fixed by the Fiscal Court of the County and shall be payable out of the county levy, in equal monthly installments.

Sec. 537b-6—Stenographer; appointment; duties; salary; removal—In said Counties there is also created the quired by the coroner in connection with said office; said office of stenographer to the coroner, whose duties shall be the performance of any stenographic or clerical work required by the coroner in connection with said office; said

stenographer to be appointed by the coroner and removal at will; and to receive a salary to be fixed by the Fiscal Court of the county and to be payable out of the county levy in equal monthly installments.

Sec. 907b-4—Salary—Said purchasing agent shall be paid for his services a salary to be fixed by the Fiscal Court of the county and to be paid in equal monthly installments out of the county levy.

Sec. 911—Salary of Indexer; appointment of assistants; salaries—The official indexer, appointed as aforesaid, shall receive for his services a sum fixed by the judges appointing and confirming him not exceeding the constitutional limitation, and said indexer may appoint his own assistants subject to the approval of the County Judge, but their compensation shall be fixed by the Fiscal Court of the county and such compensation shall be paid in equal semi-monthly installments out of the county levy.

Sec. 1020b-2—Chancery Branch judges' clerical assistants; salary; the Circuit Courts in Counties having a population of 200,000 or more, comprising a separate Judicial District, and having six Judges, or more, may, by order in General Term, any four of said Judges concurring, appoint a clerical assistant to each of the Judges of the respective Divisions of the Chancery Branch of said Court, whose duties shall be to perform such stenographic and other clerical services for said respective Judges thereof as may be assigned or directed by said Judges, in the performance of their judicial duties or functions; and the Fiscal Court of the County shall fix the compensation or salary of each of said clerical assistants which shall be paid monthly out of the County Treasury of said County.

Sec. 1055a-1—Clerks in counties of 250,000; appointment; term; salary; powers; fees—In Counties having a population of 250,000 or more the County Judge elected at a regular election for said office, shall, on the first Monday in July succeeding his election, appoint for a period of four

years a Clerk and five Deputy Clerks of the Quarterly Court, who shall have the power to file papers and issue all processes, and for their services the Clerk and each of the Deputy Clerks shall be paid salaries to be fixed by the Fiscal Court of the County, said salaries to be paid in monthly installments out of the county levy. Each clerk and deputy, before entering upon the discharge of his duties, shall execute bond before the county court, with security approved by the court. Fees collected from the Quarterly Court shall be paid into the Treasury of the County. Said collections shall be made by the Clerk, who shall monthly settle with the County Judge and pay the amount found to be due by such settlement in his hands immediately into the County Treasury.

Sec. 1061a-4—Salaries—The salary of said stenographer, or clerk, shall be fixed by the Fiscal Court and shall be payable out of the county levy in equal monthly installments, and in counties other than those containing a city of the first class shall not exceed $1,500 per annum; provided, however, said stenographer shall not be appointed except when authorized by the Fiscal Court of the County.

Sec. 1083a-4—Recorders and Deputy Recorders; employment of; term; compensation; bonds—In each justice's district of a county having a population of over 250,000 the justice of the peace shall employ one clerical assistant to be known as the recorder, whose employment shall continue for the period during which the justice of the peace making the appointment holds office, but not beyond the current term of office of said justice. Each justice of the peace may employ not exceeding three clerical assistants known as deputy recorders. Each recorder and each deputy recorder shall be compensated for his services by salaries to be fixed by the Fiscal Court of the County, which salaries shall be paid monthly, out of the general fund of the county. The said salaries shall be in lieu of all other compensation. The Fiscal Court of the county shall require bonds, with good and sufficient sureties, of recorders and deputy recorders, for

the faithful performance of their duties. The employment of each recorder and each deputy recorder shall be noted of record by the justice of the peace by the entry of a suitable order upon the records of the court, and the employment of any recorder or deputy recorder may be terminated at any time, for cause, by order of record by the justice of the peace holding office within the district. Any of said employes shall be eligible to serve in any justice's district in the county.

Sec. 1851b-3—Court shall appoint Clerk, deputy Clerk, stenographer; duties; terms; compensation—The Fiscal Court of each county in this Commonwealth in which there is located a city of the first class shall have a clerk, and may have a deputy clerk and may employ a stenographer, all of whom shall attend its sessions and keep a full and correct record of all the proceedings of the Court, together with a complete index, and who in addition shall perform such duties as may be required of them by the Court. The Fiscal Court shall, on or before July 1 every four years, beginning with 1920, appoint a clerk who shall hold his office for a term of four years, commencing on July 1. The Clerk shall execute bond to be approved by the Fiscal Court. He shall receive an annual salary which shall be fixed by the Court and paid in monthly installments out of the county levy. With the consent and approval of the Court, the Clerk may appoint a deputy who shall qualify by taking the constitutional oath. The salary of the Deputy Clerk and the stenographer shall be fixed by the Court and paid in the same way as the salary of the Clerk.

Sec. 1851b-12—Auditor, Assistant Auditor; appointment; term; compensation; bond—The Auditor and Assistant Auditor shall be appointed by the Fiscal Court and shall hold office at the pleasure of said Court. The Auditor and Assistant Auditor each shall receive an annual salary, which shall be fixed by the Fiscal Court and paid in monthly installments out of the county levy. Before said Auditor and

Assistant Auditor enter on the duties of their respective offices, each shall execute bond with an incorporated surety company, authorized and qualified to become surety on bonds in this State, or with at least two solvent and responsible individuals as surety, approved by the Fiscal Court, that he will well, truly and faithfully perform and discharge all and every duty of said office. Said Court shall fix the amount of the bond to be executed by said Auditor in the sum of not less than Three Thousand Dollars ($3,000.00) and the amount of the bond to be executed by said Assistant Auditor in a sum of not less than Two Thousand Dollars ($2,000.00).

Sec. 2237a-6—Compensation. Said Physician shall receive as compensation for his services, a salary to be fixed by the Fiscal Court and paid out of the county levy in equal monthly installments. In counties containing cities having a separate government, the County may require the City government to pay its pro-rata part of such compensation.

Section 5. In all Counties containing cities of the first class, the County Treasurer shall receive for his services such compensation as may be fixed by the Fiscal Court, payable monthly out of the county levy. So much of Section 934 of Carroll's Kentucky Statutes, 1936 Edition, as is in conflict of the provisions hereof, is hereby expressly repealed.

Section 6. In all counties having a population of 200,000 or more, the Official Court Reporters of the Civil and Criminal branches of the Circuit Court shall receive salaries to be fixed by the Fiscal Court of the County; provided, however, that the Official Reporter of the Criminal Branch of the Circuit Court shall receive, as compensation for his services, when acting in that capacity, only the salary so allowed him and shall receive no further compensation from the County for his services; provided, further, that no part of the salary or any fees of said reporter shall be paid by the Commonwealth. The fees of said reporters, when serving in Civil cases in any of said Courts or Divisions, shall be fixed by the presiding Judge thereof, not to exceed $5.00

per day for taking stenographic reports and fifteen cents per 100 words for the transcript thereof, which shall be paid forthwith by the party or parties in whose behalf said report or transcript is ordered, and shall be taxed as a part of the costs of the suit or proceedings. Said reporter shall not be required to file any of said transcripts without the payment therefor by the party, or parties in whose behalf the same is ordered, except upon motion of any party suing in forma pauperis upon order of the Court.

The stenographic reporters of the Common Pleas Branches of Circuit Courts in counties having a population of 200,000 or more shall be paid a salary to be fixed by the Fiscal Court of the County and paid in equal monthly installments out of the county levy, which salaries are to be in addition to the fees allowable by the Court to said reporters in the amount of $5.00 per day for taking stenographic reports and fifteen cents per 100 words for the transcript thereof, to be paid forthwith by the party or parties in whose behalf said report or transcript is ordered and taxed as a part of the costs of the suit or proceedings. Said reporter shall not be required to file any of said transcripts without payment therefor by the party or parties in whose behalf the same is ordered, except upon the motion of any party suing in forma pauperis upon order of the court.

The Official Reporters of the Chancery Branch of Circuit Courts in counties having a population of 200,000 or more shall be paid, in the discretion of the Fiscal Court, either a fixed annual salary, to be paid in monthly installments out of the county levy, or shall be paid a guaranteed annual amount, payable in equal monthly installments out of the county levy. In the event that the Fiscal Court elects to pay a fixed annual salary to said reporters, said reporters shall not be required to repay to the county said salary or any part of the fees collected by them. In the event that the Fiscal Court elects to pay such reporters a guaranteed annual amount in lieu of a fixed salary, said reporters shall

settle monthly with the Fiscal Court of the County for fees collected by such reporters and shall pay the amount found to be due on said settlement immediately into the County Treasury until they have paid into the County Treasury during any calendar year an amount equal to the guaranteed annual amount paid to them by the Fiscal Court; provided, however, that said reporters shall in no event be required to reimburse the County for sums received by them beyond the amount which said reporters shall have collected from the County in their respective offices during said calendar year, and they may retain any said excess without accounting to the County therefor. If any of said reporters of the Chancery Branch are employed for less than one year, they shall be required to account to the County only for so much of the fees collected by them during that time as shall equal the sums paid to them by the County for that time. If such reporters collect less than the amounts they are authorized to receive, then they shall reimburse the County for only such sums as have actually been received by them. In computing the fees of the reporters of the Chancery Branch, fees for the price of transcripts and depositions at the rate of fifteen cents per 100 words which they may make in their capacities as such reporters, and which are filed, shall be included.

So much of Section 4642 of Carroll's Kentucky Statutes, 1936 Edition, as may conflict with the provisions hereof is, to the extent of said conflict, hereby expressly repealed.

Section 7. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, then, upon the taking effect of the Kentucky Revised Statutes, KRS 69.290 shall be treated as amended to read as follows:

"The annual salaries of the first and second assistant county attorneys shall be fixed by the fiscal court and paid out of the county levy in equal semi-monthly installments."

KRS 69.320 shall be treated as amended to read as follows:

"In counties containing a city of the first class the

county attorney shall appoint a stenographer for a term of four years, subject to removal at any time by him. The stenographer shall do the stenographic and typewriting work required in the county attorney's office and shall have the same power of administering an oath as a notary public. The salary of the stenographer shall be fixed by the fiscal court and shall be paid out of the county levy in equal monthly installments." KRS 199.240 shall be treated as amended to read as provided in section 4 of this Act for § 331e-3 of Carroll's Statutes; KRS 72.130 shall be treated as amended to read as follows:

"In counties containing a population of 200,000 or more the coroner shall appoint a deputy who shall keep the books of the office, summon jurors and witnesses for inquests, and perform any other duties assigned to him by the coroner. The deputy coroner shall have the same power of serving process for the coroner as a deputy sheriff. The deputy coroner shall be appointed for a term of four years subject to removal at any time by the coroner, and shall receive a salary to be fixed by the fiscal court and to be paid out of the county levy in equal monthly installments."

KRS 72.140 shall be treated as amended to read as provided in Section 4 of this Act for § 537b-6 of Carroll's Statutes; subsection (2) of KRS 68.170 shall be treated as amended to read as provided in section 4 of this Act for § 907b-4 of Carroll's Statutes; KRS 28.250 shall be treated as amended to read as provided in section 4 of this Act for § 911 of Carroll's Statutes; KRS 24.270 shall be treated as amended to read as provided in section 4 of this Act for § 1020b-2 of Carroll's Statutes, KRS 25.490 shall be treated as amended to read as provided in section 4 of this Act for § 1055a-1 of Carroll's Statutes; KRS 25.310 shall be treated as amended to read as follows:

"The salary of the stenographer shall be fixed by the fiscal court and paid out of the county levy in equal monthly installments. In counties other than those containing a city

of the first class the salary shall not exceed $1,500 per annum." KRS 25.710 shall be treated as amended to read as provided in section 4 of this Act for § 1083a-4 of Carroll's Statutes; subsection (2) of KRS 67.120 shall be treated as amended to read as provided in section 4 of this Act for § 1851b-3 of Carroll's Statutes; KRS 68.130 shall be treated as amended to read as follows:

"The fiscal court of each county containing a city of the first class may appoint an auditor and an assistant auditor, to hold office at the pleasure of the fiscal court. The auditor and assistant auditor shall each receive an annual salary to be fixed by the fiscal court and paid in monthly installments out of the county levy. They shall each execute bond with an incorporated surety company authorized and qualified to become surety on bonds in this state, or with at least two solvent and responsible individuals as surety, the bond and sureties to be approved by the fiscal court."

KRS 441.300 shall be treated as amended to read as follows:

"The jailer of a county having a population of 150,000 or more may appoint a physician for the county jail, who shall attend upon and prescribe for all persons confined in jail by court order. The physician shall, upon appointment, enter upon the discharge of the duties of the office, and shall hold office at the pleasure of the jailer. The order of the jailer appointing or removing a physician shall be signed by the jailer and acknowledged before a notary public, and filed with the county court, which shall enter the order upon its order book. The physician shall receive a salary to be fixed by the fiscal court and paid out of the county levy in equal monthly installments. The compensation shall be paid by the county, but the county may require a city using the jail to pay its pro rata part of the compensation."

Section 4 of this Act shall then, upon the taking effect of the Kentucky Revised Statutes, stand repealed; section 5 of

this Act shall also stand repealed, and KRS 68.040 shall be treated as amended to read as follows:

"In counties containing a city of the first class the salary of the county treasurer shall be such amount as is fixed by the fiscal court; in counties containing a city of the second or third class the salary of the county treasurer shall be fixed by the fiscal court at not more than $2,400 per annum; in all other counties the salary of the county treasurer shall be fixed by the fiscal court at not more than $2,000 per annum: The salary in each county shall be paid out of the county levy in equal monthly installments."

Section 6 of this Act shall stand repealed, and subsections (1), (2)(a), and (2)(b) of KRS 28.440 shall be treated as amended to read as follows:

"(1) In counties having a population of 150,000 or more, the reporter of the criminal branch of the circuit court shall receive a salary to be fixed by the fiscal court of the county and to be paid out of the county levy, and shall receive no other compensation from the county or state for his services as reporter. He shall receive fifteen cents per hundred words for making a transcript for a person other than the county or state. If it appears that a defendant, wishing to appeal, is unable to pay for a transcript, the court may direct the reporter to make a transcript for the defendant, and the fee may be recovered at any future time from the defendant.

"(2)(a) Reporters of the common pleas branches of the court shall be paid, in addition to the fees above prescribed, a salary to be fixed by the fiscal court and paid in equal monthly installments out of the county levy.

"(2)(b) Reporters of the chancery branches of the court shall be paid, in the discretion of the fiscal court, either a fixed annual salary, to be paid in equal monthly installments out of the county levy, or a guaranteed annual amount, payable in equal monthly installments out of the county levy. If the fiscal court elects to pay a fixed annual salary, the re-

porters shall not be required to pay to the county any part of the fees collected by them. If the fiscal court elects to pay the reporters a guaranteed annual amount in lieu of a fixed salary, the reporters shall settle monthly with the fiscal court for the fees collected by them and shall pay the amount found to be due on the settlement immediately into the county treasury until they have paid into the county treasury during the calendar year an amount equal to the guaranteed annual amount paid to them by the fiscal court; they shall in no event be required to reimburse the county for sums received by them beyond the amount which they have collected from the county during the calendar year, and may retain any such excess without account to the county therefor. Reporters of the chancery branches employed less than a year on a guaranteed amount basis shall be required to account to the county only for so much of the fees collected by them during that time as shall equal the sums paid to them by the county for that time, and if they collect during that time less than the sums so received from the county, they shall pay to the county only the sums actually received by them."

Section 8. That part of § 1083a-9 of Baldwin's 1938 Supplement to Carroll's Kentucky Statutes relating to the compensation of the constable and deputy constables, and consisting of the first grammatical paragraph, is amended to read as follows:

"(1) In counties containing a population of over 250,000, for the performance of the duties of his office, each constable shall be exclusively compensated by a salary of $2,400 per annum, to be paid in equal monthly installments out of the county treasury.

"(2) In counties containing a population of over 250,000, each deputy constable appointed by the constable shall be exclusively compensated for the performance of the duties of his office, by a salary to be fixed by the fiscal court and paid in equal monthly installments out of the county treasury, but the amount paid to each deputy constable shall

in no event exceed the amount paid to the county by him, pursuant to § 1083a-2, during the preceding month."

Section 9. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, then, upon the taking effect of the Kentucky Revised Statutes, subsection (1) of section eight of this Act shall be substituted in place of subsection (1) of KRS 64.200; subsection (2) of section eight of this Act shall be substituted in place of subsection (3) of KRS 70.320, and the number "KRS 64.210" shall be substituted in place of the number "section 1083a-2" in subsection (2) of section eight of this Act.

Section 10. WHEREAS, the salaries of numerous officers appointed by fiscal courts in counties containing cities of the first class and in counties having a population of 150,000 or more are now fixed by the General Assembly of the Commonwealth of Kentucky; and

WHEREAS, said salaries are not fixed in accordance with any general scale or classification and it is deemed advisable that such fiscal courts be given authority to fix general scales of salaries for the aforesaid officers, in accordance with the character of the work being done by them; and

WHEREAS, this Act will prevent confusion and uncertainty, and will permit the application of an orderly schedule of salaries;

NOW, THEREFORE, an emergency is now declared to exist, and this Act shall take effect and be in force from and after its passage and approval by the Governor.

By Mr. Clayton.

H. B. 342. An Act to establish the county lines of Rowan County, Kentucky.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky as follows:*

That whereas Chapter 27 of the General Assembly of the Commonwealth of Kentucky at its session held in the city of

Frankfort, Kentucky, at the January term 1856 of said Legislature enacted the following:

"That from and after the first day of May, 1856, so much of the counties of Fleming and Morgan lies within the following boundary, shall be and the same is hereby erected into and established a separate and distinct county, to be called the County of Rowan, viz: Beginning at the Elk Lick on the Licking River, near Fielding Cooper's, in Fleming County; running thence up the Licking River to the mouth of the north fork of said river in Morgan County; thence up said north fork of said river to the mouth of the creek called Miner's Creek; thence up said creek to the mouth of the branch running by the residence of Jedediah Day; thence up said branch to the head thereof; thence down a creek called Laurel Creek, to the mouth of Bates' branch; thence with the ridge, east of Bates' Branch, to the head of the twin branches of Craney creek; thence with the ridge, between twin branches of Craney creek to the line of Carter County; thence with said boundary line of Carter County to the boundary line between Carter and Fleming Counties; thence with said boundary line, between Carter and Fleming counties, to the point of which the boundary lines of Carter, Lewis and Fleming counties intersect each other; thence with the boundary, between Fleming and Lewis Counties, to the head of the east fork of Fox creek; and thence with the dividing ridge, between the waters of Fox and Triplett creeks, to the beginning."

Now in order to establish the true boundary line between the counties of Rowan and Bath and in view of the fact that the Licking River has in the last forty (40) years changed its course slightly and futhermore, in view of the fact that the sole and only property owners affected desire to be Incorporated to the County of Rowan, Cyrus Alley and one McGlothin and whereas the change of said boundary does not effect any other lands due the action of the Licking River, now be it ordained by the General Assembly of the Commonwealth of Kentucky that said boundary of the County of Rowan from

this day be and it is hereby established as follows: In lieu of all other acts heretofore enacted that from and after the first day of March 1942, so much of Counties of Fleming and Morgan as lie within the following boundary be and the same is hereby established as a separate and distinct count, known as Rowan:

"Beginning at the Elk Lick on the Licking River near Fielding Cooper's in Fleming County, hence up the Licking River with the thread of the stream as it is now located so as run with the center thereof at low tide to the mouth of North Fork of the said Licking River to Morgan County, Kentucky; thence up said North Fork of Licking River to the mouth of the creek called Miner's Creek; thence up said creek to the mouth of the branch running by the residence of Jedidiah Day; thence up said branch to the head thereof; thence down a creek called Laurel Creek, to the mouth of Bates' Branch; thence with the ridge, east of Bates' Branch to the head of the twin branches of Craney creek; thence with the ridge, between said twin branches of Craney creek to the line of Carter County; thence with said boundary of Carter County to the boundary line between Carter and Fleming Counties, to the point of which the boundary lines of Carter, Lewis and Fleming intersect each other; thence with the boundary, between Fleming and Lewis Counties, to the head of east fork of Fox creek; and thence with the dividing ridge, between the water of Fox and Triplett creeks, to the beginning."

By Mr. Mann.

H. B. 343. An Act to amend subsection (3) of Section 1 of Chapter 112 of the Acts of 1940, relating to the licensing of school buses.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Subsection (3) of Section 1 of Chapter 112 of the

Acts of 1940, relating to the licensing of school buses is amended to read as follows:

(a) Any person owning a truck or bus used solely in transporting school children and school employes, or as may be permitted under paragraph (b) of this subsection, may have the truck or bus registered as a school bus and obtain a license for $4.50 by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, or as may be permitted by paragraph (b), that he has caused to be printed on each side of the bed of the truck or bus and on the rear door or part of the bed the words "School Bus" in letters at least six inches high and of a conspicuous color and that, except as may be permitted under paragraph (b) of this subsection, the truck or bus will be used during the next twelve months only for the purpose stated.

(b) Any person owning a truck or bus as described in paragraph (a) of this subsection and having obtained a license as provided in paragraph (a) may obtain an additional license for such truck or bus for $10. Any truck or bus having the license provided for in this paragraph may, with the written permission of the school superintendent of the district which the truck or bus serves, be used to make occasional trips for education or recreational purposes, other than those permitted by paragraph (a) of this section. A separate permit must be obtained from the school superintendent for each trip and the superintendent shall not give such permission unless he considers the trip to the interest of the community.

§ 2. The board of education of the school district shall not be liable for any liability resulting from the operation of school truck or buses on occasional trips permitted by paragraph (b) of § 1 of this Act.

§ 3. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of

this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of subsection (5) of KRS 186.150, and thereafter be treated as an amendment to subsection (5) of KRS 186.150 rather than an amendment to 1940,c112, § 1(3).

By Mr. Marcum.

H. B. 344. An Act to amend and re-enact section 1730 of Carroll's Kentucky Statutes, Baldwin's 1936 edition.

WHEREAS, since the induction into offfice of the jailers of the Commonwealth for the present and ensuing term there has been and will be a very rapid advance in the cost of all commodities and foodstuffs used in keeping, maintaining and dieting prisoners, which will so reduce the earnings of the respective jailers of the Commonwealth that their remuneration will thereby be greatly reduced during their terms, and

WHEREAS, it is necessary to increase the pay of said jailers for dieting prisoners in order that they may not suffer a diminution in their income or fees or salaries, and

WHEREAS, it appears that it will require an additional twenty-five cents (25c) per day per each prisoner to absorb the increase in the cost of dieting these prisoners and prevent the compensation of the jailers from being decreased during their terms of office, NOW, THEREFORE,

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Section 1730 Carroll's Kentucky Statutes, 1936 edition, be amended and re-enacted to read as follows:

The fees of the jailers shall be as follows:

For attending County and Quarterly Courts, to be paid out of the County levy, per day, not exceeding two dollars ($2.00).

For furnishing fuel and lights to County and Quarterly Courts, a reasonable compensation not exceeding two dollars ($2.00) per day, to be paid out of the County levy.

For putting a prisoner in irons, for an offense other than a felony, or contempt besides the cost of irons, to be paid out of County levy, fifty cents (.50c).

For keeping and dieting prisoners in jail when confined for an offense other than a felony or contempt of court, one dollar ($1.00) per day, to be paid out of the county levy, unless confined for a breach of the by-laws or ordinances of a city or town, or for the violation of a statute where the city or town gets the benefit of the fine; in that case to be paid by such city or town: Provided, that in counties having within their boundaries cities of the first class, the charge for keeping and dieting prisoners in jail when confined for an offense other than a felony or contempt of court, shall be one dollar ($1.00) per day, to be paid out of the county levy, unless confined for a breach of the by-laws or ordinances of a city or town, or for the violation of a statute where the city or town gets the benefit of the fine; in that case to be paid by such city or town.

For imprisoning and releasing a prisoner charged with a misdemeanor, sixty cents (60c), to be paid out of the county levy, unless confined for a breach of the by-laws or ordinances of a city or town, or for violation of statute, where the city or town gets the benefit of the fine; in that case, to be paid by such city or town. And for imprisoning and releasing a prisoner charged with a felony, sixty cents (60c), to be paid out of the state treasury. For all other services performed by him the same fees as paid sheriffs.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall stand repealed as of the effective date of the Kentucky Revised Statutes, and the following shall take effect in lieu thereof:

Jailers shall be paid out of the county treasury, except

as provided in subsection (2) of this section, the following fees for the following services:

Attending county and quarterly courts, per day not exceeding ..... $2.00

Furnishing fuel and lights to county and quarterly courts, except as provided in KRS 67.150 a reasonable compensation, not exceeding, per day .....$2.00

Putting a prisoner in irons, for an offense other than a felony or contempt, besides the cost of irons .....$ .50

Keeping and dieting prisoners in jail, when confined for an offense other than a felony or contempt of court, per day ..... $1.00

Imprisoning and releasing a prisoner charged with a misdemeanor ..... $ .60

The provision so substituted by this section shall thereafter be treated as an amendment to subsection (1) of KRS 64.150 rather than an amendment to 1730 Carroll's Statutes, and the remainder of KRS 64.150 shall remain in full force and effect and shall not be treated as affected by this Act.

By Mr. Simpson.

H. B. 345. An Act to provide a state bounty for crows.

Said bill is as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Any person who kills a crow in this state shall be entitled to a bounty of fifteen cents, to be paid by the Department of Conservation out of sums appropriated for that purpose.

§ 2. Any person claiming such bounty shall exhibit both feet of the crow to the nearest county clerk within five days after the killing thereof, and shall sign and deliver to the county clerk an affidavit, in a form prescribed by the Department of Conservation, containing sufficient information to

prevent any person from obtaining a bounty wrongfully. At the same time such person shall deliver to the county clerk both feet of the crow. Upon receiving the affidavit and the feet of the crow the county clerk shall issue a certificate, in a form prescribed by the Department of Conservation, certifying that the claimant is entitled to the bounty. If the certificate is presented to the Department of Conservation within thirty days after the date it was issued, the Department of Conservation shall authorize it to be paid.

§ 3. There is hereby appropriated to the Department of Conservation out of the General Fund for each of the two fiscal years ending June 30, 1943, and June 30, 1944, the sum of $5000.00 dollars, to be used for the purpose of paying bountiest for crows under the provisions of this Act.

§ 4. Section 1840f-1 of Carroll's Kentucky Statutes, 1936 edition, is repealed.

§ 5. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, this Act shall be treated as repealing KRS 249.240, regardless of the date of enactment or taking effect of the Kentucky Revised Statutes.

By Mr. Simpson.

H. B. 346. An Act requiring incorporated cities to file in the office of the clerk of the county court of the county wherein same is located, a map or plat of such city together with all amendments thereto, and fixing penalties.

Said bills is as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Every city now or hereafter incorporated in this state, except those in which a county seat is located, shall cause to be recorded in the office of the county clerk of the county in which the city is located, a map or plat, either as a

whole or in segments, comprising the whole of the city, showing the boundaries thereof, with streets, alleys and otherways or thoroughfares, and the subdivision or dimensions of same, also such other information and detail as the city deems necessary, and shall record a plat showing any change in the boundaries of the city or subdivision thereof, which may appear from time to time. Such maps or plats shall be recorded by the county clerk in plat and subdivision record books, or similar books, and shall be indexed the same as plats and subdivisions are required to be indexed.

§ 2. The city shall pay to the county clerk a fee based upon the amounts now collected for recording plats and subdivisions. Such plats of cities now existing shall be recorded within six months after the passage of this Act and such plats of cities hereafter created shall be recorded within thirty days after their incorporation. Plats of changes in the boundaries of any city or subdivision thereof shall be recorded within thirty days after the date on which the change is authorized.

§ 3. The mayor or chief executive officer of each city shall see that this Act is complied with. Failure to record the maps or plats as required by this Act shall subject such official and the city to a fine of twenty-five dollars and each day the failure continues shall constitute a separate offense.

By Mr. Howard.

H. B. 347. An Act relating to prostitution, lewdness and assignation.

Said bill is as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION ONE: It shall be unlawful to engage in prostitution or to aid and abet prostitution or to procure or solicit any person for the purpose of prostitution, or to keep or set up a house of ill-fame, brothel, or bawdy house, or to

receive any person for the purpose of lewdness, assignation, or prostitution in any vehicle, conveyance, place, structure or building, or to permit any person to remain for the purpose of lewdness, assignation, or prostitution in any vehicle, conveyance, place, structure or building, or to direct, take, or transport, or to offer to agree to take or transport any person to any vehicle, conveyance, place, structure, or building, or to any other person with knowledge or reasonable cause to know that the purpose of such directing, taking or transporting is prostitution, lewdness, or assignation, or to lease or rent or contract to lease or rent any vehicle, conveyance, place or structure, or building, or part thereof, knowing or with good reason to know that it is intended to be used for any of the purposes herein prohibited.

SECTION TWO: Any person violating any provision of this act shall be fined not exceeding $200.00 or confined in the county jail for not more than one year, or both so fined and imprisoned.

SECTION THREE: This act shall in no wise repeal any laws of the Commonwealth of Kentucky on the subject of prostitution and shall be construed by the courts as supplementary thereto.

By Mr. Swope.

H. B. 348. An act relating to insurance policies, contracts, bonds, or other evidences of insurance transactions with respect to which the Commissioner of Highways has the power of approval or the power to award contracts.

Said bill is as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

No insurance policy, contract, bond or other evidence of insurance required to be filed and approved by the Commissioner of Highways, and on insurance policy, contract, bond or other evidence of insurance incident or pertaining to an

operation under a contract awarded by the Commissioner of Highways, shall be issued or delivered in this state unless such insurance policy, bond, contract or other evidence of insurance shall be countersigned by a duly licensed resident local agent of Kentucky, and when the premium is paid for any such insurance policy, bond, contract or other evidence of insurance, the full commission for same shall be collected by such countersigning agent and it shall be unlawful for him to divide commission with anyone except a duly licensed resident local agent of this state.

Any insurance company violating any of the provisions of this Act shall upon conviction be fined not less than $1,000.00, nor more than $5,000.00, in the discretion of the jury, and upon such conviction its license to do business in this state shall be cancelled and not renewed for a period of two years thereafter.

Any agent violating any of the provisions of this Act, upon conviction, shall be fined not less than $100.00 nor more than $500.00, in the discretion of the jury, and upon such conviction said person's license as insurance agent in this state shall be revoked or not renewed for a period of two years thereafter.

By Mr. Fitzpatrick.

H. B. 349. An Act relating to Alcohol Control.

Said bill is as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

1. Section 2554c-20 of Baldwin's 1936 Edition of Carroll's Kentucky Statutes is amended to read as follows:

Unlawful to Transport Intoxicating Liquors into Local Option Territory. It shall be unlawful for any person or public or private carrier to bring into, transfer to another, deliver or distribute in any local option territory and intoxicating liquor, regardless of the name by which it may be call-

ed. Each package of such liquor so brought, transferred or delivered in such territory shall constitute a separate offense. Provided, however, that nothing herein shall be construed to prevent any distiller or manufacturer or any authorized agent of a distiller, manufacturer or wholesale dealer from transporting or causing to be transported by a licensed carrier any intoxicating liquors to their distilleries, breweries, wineries or warehouses where the sale of such liquors may be lawful, either in or out of the State.

2. Section 2554c-21 of Baldwin's 1938 Supplement to Carroll's Kentucky Statutes is amended to read as follows:

Receiving or Accepting Liquor. It shall be unlawful for any person of such territory to receive or accept any intoxicating liquor from a common carrier or from any person who has transported such liquor in or into such territory for compensation, hire or profit of any kind whatsoever either directly or indirectly. Each and every package of said intoxicating liquor so received or accepted shall constitute a separate offense. Provided, however, that nothing herein shall be construed to prevent any distiller or manufacturer of intoxicating liquors or any authorized agent of a distiller or manufacturer or wholesale dealer from receiving or accepting any intoxicating liquors which are to be sold in a territory where the sale of such liquors may be lawful either in or out of the State.

3. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one and two of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted, respectively, in place of KRS 242.260 and 242.280, and shall thereafter be treated as an amendment to KRS 242.260 and 242.280 rather than an amendment to §§ 2554c-20 and 2554c-21 of Carroll's Statutes.

By Mr. Henry Ward.

H. B. 350. An Act relating to motor vehicles.

Said bill is as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky*:

§ 1. *Definitions.* As used in this Act, unless the context requires otherwise.

(1) "Department" means the Department of Revenue.

(2) "Vehicle" or "automobile" shall have the same meaning as is given the said words by the definition in subsection *a* of section 2939g-1 of Carroll's Kentucky Statutes, 1938 Supplement, as it may be amended.

§ 2. Section 2730g-2d of Carroll's Kentucky Statutes, Baldwin's 1940 Supplement (Chapter 112, Section 1, 1940 Acts of the General Assembly) is amended to read as follows:

(1) All automobiles, except those mentioned in section 2739g-2c and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as trucks or buses. The term "truck" includes a tractor and trailer or semi-trailer combination, as well as a single unit. Trucks and buses are further classified as trucks and buses operated for hire, and trucks privately operated. A truck or bus is operated for hire when it is used for common carrier purposes or pursuant to a contract or agreement for the transpotation of persons or property for a charge or compensation. A truck or bus is privately operated when it is not operated for hire.

(2) The annual registration fee for such trucks and buses shall be determined by the gross weight which shall include, in addition to the weight of the truck or bus, the load, driver, and any passenger carried by such truck.

The annual license fee for a truck or bus operated for hire shall be as follows:

For a truck or bus having a gross weight of not more than eight thousand pounds, (8,000), twenty-five dollars ($25.00);

For a truck or bus having a gross weight of more than eight thousand pounds (8,000) but not more than twelve thousand pounds (12,000), forty-five dollars ($45.00);

For a truck or bus having a gross weight of more than twelve thousand pounds (12,000) but not more than sixteen thousand pounds (16,000), ninety dollars ($90.00);

For a truck or bus having a gross weight of more than sixteen thousand pounds (16,000) but not more than twenty thousand pounds (20,000), one hundred and thirty-five dollars ($135.00);

For a truck or bus having a gross weight of more than twenty thousand pounds (20,000) but not more than twenty-four thousand pounds (24,000), one hundred and eighty dollars ($180.00);

For a truck or bus having a gross weight of more than twenty-four thousand pounds (24,000) but not more than twenty-eight thousand pounds (28,000), two hundred and sixty-five dollars ($265.00);

For a truck or bus having a gross weight of more than twenty-eight thousand pounds (28,000), five hundred dollars ($500.00).

The annual license fee for a truck or bus privately operated shall be as follows:

For a truck or bus having a gross weight of not more than six thousand pounds (6,000), ten dollars ($10.00);

For a truck or bus having a gross weight of more than six thousand pounds (6,000) but not more than eight thousand pounds (8,000), twenty dollars ($20.00);

For a truck or bus having a gross weight of more than eight thousand pounds (8,000) but not more than twelve thousand pounds (12,000), thirty-five dollars ($35.00);

For a truck or bus having a gross weight of more than twelve thousand pounds (12,000) but not more than sixteen thousand pounds (16,000), sixty-five dollars ($65.00);

For a truck or bus having a gross weight of more than sixteen thousand pounds (16,000) but not more than twenty thousand pounds (20,000), one hundred dollars ($100.00);

For a truck or bus having a gross weight of more than twenty thousand pounds (20,000) but not more than twenty-four thousand pounds (24,000), one hundred and forty-five dollars ($145.00);

For a truck or bus having a gross weight of more than twenty-four thousand pounds (24,000) but not more than twenty-eight thousand pounds (28,000), two hundred dollars ($200.00);

For a truck or bus having a gross weight of more than twenty-eight thousand pounds (28,000), five hundred dollars ($500.00);

Any truck or bus licensed for a declared maximum gross weight may be lawfully operated on occasional trips with a greater gross weight by securing a trip license for which there shall be charged one percent (1%) of full annual license fee for a truck or bus of such gross weight. Trip licenses shall be issued by the county clerks under rules and regulations of the Department of Revenue. A trip license shall be valid for only one day of 24 hours and each such license issued shall show the hours for which it is valid; the license number of the truck or bus for which it is issued; the gross weight authorized; and such other information as may be required by regulation.

(3) Any farmer owning a truck having a capacity of not not more than three thousand pounds (3,000) may have it registered as a farmer's truck and obtain a license for four dollars and fifty cents ($4.50) by filing with the county clerk, in addition to other information required, an affidavit stating that he is a farmer engaged solely in the production of crops, livestock or dairy products, that he owns a truck of the capacity of not more than three thousand pounds (3,000), that he has caused to be printed upon each side of the bed of the

truck the words "Farmer's Truck" in letters sharply contrasting with the background and at least three inches in height, and that during the next twelve months the truck will be used only for transporting persons, foods, provender, feed and machinery used in operating his farm and the products grown on his farm.

(4) Any person owning a truck or bus used solely to transport school children and school employes may have the truck or bus registered as a school bus and obtain a license for four dollars and fifty cents ($4.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely to transport school children and persons employed in the schools of the district or districts, and that he has caused to be printed on each side of the bed of the truck or bus and on the rear door or part of the bed the words "School Buss" in letters at least six inches high and in a color contrasting sharply with the background, and that the truck or bus will not be used during the next twelve months except for the purposes stated.

(5) Any church or religious organization owning a truck or bus used solely in transporting persons to and from a church or place of worship or for other religious purposes may have the truck or bus registered as a church bus and obtain a license for four dollars and fifty cents ($4.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus will be used only for the transportation of persons to and from a church or place of worship or for other religious purposes, and that there has been printed on the truck or bus in letters at least six inches high, contrasting sharply with the background, the words "Church Bus" with the name of the church or religious organization owning and using the truck or bus, and that during the next twelve months the truck or bus will not be used except for the purposes stated.

(6) Any person owning a truck on which an outfit for drilling water wells has been mounted and bolted to the chas-

sis may register the truck and obtain a license for four dollars and fifty cents ($4.50) by filing with the county clerk, in addition to other information required, an affidavit that an outfit for the drilling of water wells has been mounted on and bolted to the chassis of the truck, and that during the next twelve months the truck will be used only for the transportation of the well drilling outfit

§ 3. All license plates for trucks and buses shall be substantially the same as license plates mentioned in subsection (3) of section 2737g-63 of Carroll's Kentucky Statutes, 1936 Edition as amended, except that they shall show the gross weight for which the truck or bus is licensed in lieu of the name of the county in which it is licensed. Provided, however, a duplicate plate of that on any trailer shall be displayed on the rear of any trailer or semi-trailer hauled thereby, and license plates on trucks and buses for hire shall be distinguishable from those on trucks or buses privately operated.

§ 4. Reperesnetatives of the Highway Patrol, of the Division of Motor Transportation of the Department of Business Regulation, and of the Department of Revenue, and all peace officers of the state may stop and weigh any truck or bus in order to determine compliance with this Act. If it shall be necessary for any truck or bus to be taken to a scale it shall be taken to the next convenient scale in the direction in which the truck or bus is traveling when it was stopped. If any truck or bus is found on the highways having a gross weight greater than that for which it is licensed, the operator thereof may be required forthwith to drive it to the nearest county seat and there secure an appropriate license. In such an event, and upon the surrender of the improper plates and registration receipt, credit shall be allowed for the amount paid for such license, provided, however, that a full year's license fee is charged for the new license. Any person found operating a truck or bus on the highways having a gross weight greater than that for which it is licensed, and who is

required to properly license it, shall in addition to procuring the license, pay to the county clerk a civil penalty of ten percent of the amount of the new annual license and said ten percent shall become a part of the license tax.

Any person convicted of violating any provision of this Act shall be guilty of a misdemeanor and shall be fined not less than twenty-five dollars ($25.00) nor more than two hundred dollars ($200.00), or may be imprisoned for not more than thirty (30) days, or both.

§ 5. An ex officio commission is hereby established for the purpose of entering at its discretion on behalf of this Commonwealth into reciprocal contracts, compacts, and agreement with other states, the District of Columbia, territorial possessions of the United States, provinces of Canada, and Latin American nations, relative to taxes and fees applying specifically and only to motor vehicles used on the highways. Said Commission shall consist of the Commissioner of Highways, the Director of the Division of Motor Transportation of the Department of Business Regulation, and the Commissioner of Revenue, who shall be chairman. At least two members of the Commission shall approve in writing any contract, compact, or agreement before it shall become binding upon this Commonwealth.

The commission shall have power to enter into contracts, compacts, and agreements exempting motor vehicles properly registered and licensed in another state from registration, permit, and certificate fees, and the weight tax and any other tax which this Commonwealth may impose specifically and only on motor vehicles used on the highways; provided, that the state in which such motor vehicles are properly registered and licensed shall extend comparable privileges to motor vehicles properly registered and licensed in this Commonwealth; and provided further, that contracts, compacts and agreements entered into under this Act shall not exempt any nonresident owner operating a motor vehicle on highways in Kentucky from (a) the payment of any requisite taxes or fees

in Kentucky unless he shall have paid all requisite taxes and fees in the state in which the owner resides or has a principal place of business which shall be the same state as the agreeing state in which the motor vehicle is registered and licensed; (b) securing, without payment of any fee, any permit or certificate of convenience and necessity required by the laws of this Commonwealth; or (c) compliance with all the laws and regulations of this Commonwealth relating to length, weight, height, and safety devices.

§ 6. Sections 2739j-78, 2739j-78a, 2739j-78b, 2739j178c and 2739j-78d of Baldwin's 1938 Supplement to Carroll's Kentucky Statutes, and all other laws in conflict with this Act, are hereby repealed.

§ 7. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall stand repealed as of the effective date of the Kentucky Revised Statutes, and the following shall take effect in lieu thereof:

*Definitions.* As used in this Act, unless the context requires otherwise:

(1) "Buses and trucks" includes all motor vehicles except those mentioned in subsections (1) and (2) of KRS 186.050, and those engaged in hauling passengers for hire under a certificate of convenience and public necessity. A bus or truck is operated for hire when it is used for common carrier purposes or pursuant to a contract or agreement for the transportation of persons or property for a charge or compensation. A truck or bus is privately operated when it is not operating for hire.

(2) "Department" means Department of Revenue.

(3) "Motor vehicle" has the same meaning as defined in subsection (4) of KRS 186.010, in so far as it applies to KRS 186.020 to 186.050.

§ 8. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, subsections (1)

and (2) of section two of this Act shall stand repealed as of the effective date of the Kentucky Revised Statutes, and the following shall take effect in lieu thereof:

(3) (a) The annual registration fee for trucks and buses shall be determined by the gross weight which shall include, in addition to the weight of the truck, the load, driver, and any passenger carried by such truck.

(b) The annual license fee for a truck or bus operated for hire shall be as follows:

| *Gross Weight* | *Fee* |
|---|---|
| 8,000 pounds or less | $ 25.00 |
| 8,000 to 12,000 pounds | 45.00 |
| 12,000 to 16,000 pounds | 90.00 |
| 16,000 to 20,000 pounds | 135.00 |
| 20,000 to 24,000 pounds | 180.00 |
| 24,000 to 28,000 pounds | 265.00 |
| over 28,000 pounds | 500.00 |

(c) The annual license fee for a truck or bus privately operated shall be as follows:

| *Gross Weight* | *Fee* |
|---|---|
| 6,000 pounds or less | $ 10.00 |
| 6,000 to 8,000 pounds | 20.00 |
| 8,000 to 12,000 pounds | 35.00 |
| 12,000 to 16,000 pounds | 65.00 |
| 16,000 to 20,000 pounds | 100.00 |
| 20,00 to 24,000 pounds | 145.00 |
| 24,000 to 28,000 pounds | 200.00 |
| over 28,000 pounds | 500.00 |

(d) Any truck or bus licensed for a declared maximum gross weight may be lawfully operated on occasional trips with a greater gross weight by securing a trip license for which there shall be charged one percent of the full annual license fee for a truck or bus of such gross weight. Trip licenses shall be issued by county clerks under rules and regulations of the department. A trip license shall be valid

for only one day of twenty-four hours and each such license issued shall show: The hours for which it is valid; the license number of the truck or bus for which it is issued; the gross weight authorized; and such other information as may be required by regulation.

The provision so substituted by this section shall thereafter be treated as an amendment to subsection (3) of KRS 186.050 rather than an amendment to § 2739g-2 of Baldwin's Supplement, and KRS 186.050(1) and (2) shall remain in full force and effect and shall not be treated as affected by this Act.

§ 9. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, subsections (3) to (6) of section two of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of subsections (4) to (7) of KRS 186.050, and shall thereafter be treated as an amendment to subsections (4) to (7) of KRS 186.050 rather than an amendment to § 2739g-2d of Baldwin's Supplement.

§ 10. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, upon the taking effect of the Kentucky Revised Statutes, the number "subsection (5) of KRS 186.240" shall be substituted for "subsection (3) of section 2739g-63 of Carroll's Kentucky Statutes, 1936 Edition as amended" in section three of this Act.

§ 11. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section six of this Act shall be treated as repealing KRS 281.470 to 281.490, regardless of the date of enactment or taking effect of the Kentucky Revised Statutes.

By Mr. Shaikun.

H. Res. 68. A JOINT RESOLUTION authorizing the payment of costs and attorneys' fees in the contest case of Cooper v. Duff.

WHEREAS, during the 1942 Regular Session of the Legislature a contest was filed by Huber J. Cooper, Contestant, against Dr. J. A. Duff, Contestee, arising out of the November election held in Ohio County; and

WHEREAS, this contest was duly presented to the House of Representatives for their consideration; and

WHEREAS, a Contest Committee was selected by lot to consider this matter; and

WHEREAS, said Contest Committee, with the agreement of the parties involved, employed the Hon. Max B. Harlin, Sr., to act as Special Commissioner in helping consider the contest case; and

WHEREAS, after due consideration by this committee and by a vote of the House it was decided that Dr. J. A. Duff, Contestee, should retain his seat in the House from Ohio County; and

WHEREAS, it has heretofore been the custom and precedent set by the General Assembly to allow the Contestant and the Contestee their expenses involved in contest cases;

NOW, THEREFORE,

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That there is hereby appropriated out of the Legislative Session Fund the sum of $114.50 to Dr. J. A. Duff for court costs expended by him, and the further sum of $200.00 to be paid to his Attorneys, Otto C. Martin and Marion Rider, and the sum of $150.000 to Huber J. Cooper for his court costs, and the further sum of $200.00 to be paid to his Attorney, W. A. Moore, and also the sum of $246.12 to be paid the Hon. Max B. Harlin, Sr. for his services as Special Commissioner and his expenses incurred while acting as same, and the Commissioner of Finance is hereby directed

to draw his warrants upon the Treasurer in favor of the above mentioned parties for the above amounts specified.

By Mr. Brock.

H. Res. 69. A JOINT RESOLUTION authorizing the personal representative of Ballard Tincher to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That the personal representative of Ballard Tincher is authorized to sue the Commonwealth of Kentucky in Jackson Circuit Court for damages resulting from personal injury (or property damage) caused by alleged negligence on the part of an employee of the Commonwealth of Kentucky while said employee was in line of duty as an employee of this Commonwealth.

Said suit shall be for a sum not in excess of $10,000.

The Attorney General of the Commonwealth of Kentucky may investigate the claim (or claims) against the Commonwealth herein and settle said claim (or claims) before or after suit is filed, if he deems it advisable. Any amount recovered in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

By Mr. Brock.

H. Res. 70. A JOINT RESOLUTION authorizing Albert Taylor, Administrator of the estate of Earl Edwards to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

THAT Albert Taylor, Administrator of the estate of Earl Edwards is/are authorized to sue the Commonwealth of Kentucky in ..... Circuit Court for damages resulting from personal injury (or property damage) caused by alleged negligence on the part of an employee of the Commonwealth of Kentucky while said employee was in the line of duty as an employee of this Commonwealth.

Said suit shall be for a sum not in excess of $10,000.

The Attorney General of the Commonwealth of Kentucky may investigate the claim (or claims) against the Commonwealth herein and settle said claim (or claims) before or after suit is filed, if he deems it advisable. Any amount recovered in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

By Mr. Harding.

H. Res. 71. A JOINT RESOLUTION authorizing C. D. Cheatham Adair Co. Kentucky to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That C. D. Cheatham Adair Co. Kentucky is authorized to sue the Commonwealth of Kentucky in Adair Circuit Court for damages resulting from property damage caused by alleged negligence on the part of an employee of the Commonwealth of Kentucky while said employee was in line of duty as an employee of this Commonwealth.

Said suit shall be for a sum not in excess of $42.05.

The Attorney General of the Commonwealth of Kentucky may investigate the claim (or claims) against the Commonwealth herein and settle said claim (or claims) before or after suit is filed, if he deems it advisable. Any amount recovered in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

By Mr. Milam.

H. Res. 73. A JOINT RESOLUTION authorizing Carl Miller to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

THAT Carl Miller is authorized to sue the Commonwealth of Kentucky in Logan Circuit Court for damages resulting from personal injury (or property damage) caused by alleged negligence on the part of an employee of the Commonwealth of Kentucky while said employee was in the line of duty as an employee of this Commonwealth.

Said suit shall be for a sum not in excess of $2,000.

The Attorney General of the Commonwealth of Kentucky may investigate the claim (or claims) against the Commonwealth herein and settle said claim (or claims) before or after suit is filed, if he deems it advisable. Any amount recovered in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

Ordered that said bills and resolutions be printed and referred

To the Committee on Rules.

Mr. Henry Ward moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

THURSDAY, FEBRUARY 19, 1942

The House was called to Order by The Honorable Stanley S. Dickson, Speaker.

The House was opened with prayer by the Reverend Fred S. Moffatt of the First Baptist Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

C. W. Anderson, Jr.
George P. Anderson
Henry Arrowood
Robert E. Barry
W. T. Beard
Robert E. Beatty
Rell Bevins
Douglas T. Bolling
H. M. Brock, Jr.
Gus A. Brooks
Sherman E. Carter
C. L. Clayton
Oris Cooper
M. A. Cornett
John Henry Cox
Rev. W. W. Crouch
Guthrie F. Crowe
Pink G. Curd
Forest C. Easley
Harry W. Ennis
John D. Fields
T. P. Fitzpatrick
W. W. Freeman
Joseph J. Grace
Bert Hall
A. G. Hamilton, Jr.
Fuller Harding
E. R. Hilton
Clyde S. Howard
Chas. O. Humston
W. H. Hunt
Joe B. Jarboe, Jr.
Crow Jarvis
William L. Jones
John S. Juett
W. A. Lamkin
H. W. Linville
A. L. Love
Harry K. Lowman
Hugh D. Lyon
H. McCartney
Cary McDevitt
Norris McPherson
Dr. Wm. C. Mann
Ed. Marcum
C. C. May
J. Milton Mefford
Sam Milam
D. J. Moore
J. Lee Moore
L. D. Moore
C. E. Montgomery
F. E. Morancy
E. R. Morlidge
C. Sid Nabb
Coy Nevitt
Robert Nicholas
H. C. Patterson
Paul Pelfrey
B. W. Porter
Kleber F. Price
James E. Quill
L. Allen Rhoads
Dr. J. J. Rice
Dr. M. M. Robinson
Dr. K. N. Salyer
Carl Scheben
Leon J. Shaikun
Faust Y. Simpson
Clyde Smith
Otto Smither
Charles L. Spilman
James D. Stacey
J. Claude Stacy
Thomas M. Swope
C. W. Taylor
Egbert Taylor
Roy L. Taylor
Rev. H. Tinsley
Erna E. Tyra
C. R. Walden
Harry Walters
Henry Ward
H. L. Waterfield
Stanley S. Dickson, Speaker

Mr. Henry Ward moved that the House do now recess for thirty minutes.

Said motion was agreed to.

And then the House recessed.

Thirty minutes having expired, the Speaker resumed the Chair and called the House to order.

Mr. Henry Ward moved that the House do now recess until two o'clock P. M.

Said motion was agreed to.

And then the House recessed.

The hour of two o'clock P. M. having arrived, the Speaker resumed the Chair and called the House to order.

Mr. Henry Ward moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Brock offered the following resolution, viz.:

Whereas, various comment has been directed both verbally and through the press toward the Commissioner of Welfare concerning padding of salaries, creation of sleeper jobs, and various sundry charges, and,

Whereas, this body is desirous of knowing the truth of such charges, and

Whereas, no report of jobs, pensioners, etc., has ever been made public, therefore

*Be it Resolved by the House of Representatives of the Commonwealth of Kentucky:*

That the Commissioner of Welfare of Kentucky be requested to furnish to the members of this body as a report the names, addresses by county, and amounts of money dis-

pensed to such needy persons; and to furnish members of this body with a report showing the names, addresses by county, jobs and salaries of each employee of the Department of Welfare.

Said resolution was disagreed to.

A message was received from the Senate announcing that they had passed bills which originated in that body, entitled:

S. B. 124. An Act to repeal Section 574 of the Code of Practice in civil cases, Carroll's Civil Code of Practice, Baldwin's 1932 Edition, relating to taking depositions upon interrogatories.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 574 of the Code of Practice in civil cases, being Carroll's Civil Code of Practice, Baldwin's 1932 Edition, be and the same is hereby repealed.

S. B. 126. An Act to repeal and re-enact Section 126 of the Criminal Code of Practice, Baldwin's Revision of 1932, relating to the manner of charging an offense in an indictment.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 126 of the Criminal Code of Practice, Baldwin's Revision of 1932, be repealed and re-enacted, and as re-enacted shall be as follows:

Section 126. INDICTMENT TO CHARGE BUT ONE OFFENSE; DEFECTS, VARIANCES AND AMENDMENT.

1. An indictment, except in the cases mentioned in Section 127, must charge, but one offense, but if it may have

been committed in different modes and by different means the indictment may allege the modes, means or results in the disjunctive or alternative.

2. No indictment for an offense created or defined by statute shall be invalid or insufficient merely for the reason that it fails to negative any exception, excuse or proviso contained in the statute creating or defining the offense.

3. An indictment need not allege that the offense was committed or the act done "feloniously", or "traitorously", or "unlawfully", or "with force and arms", or "with a strong hand", nor need it use any phrase of like kind otherwise to characterize the offense; nor need it allege that the offense was committed or the act done "burglariously", "wilfully", "knowingly", "maliciously", or "negligently", nor need it otherwise characterize the manner of the commission of the offense, unless such characterization is necessary to charge the offense under section 122.

4. No indictment shall be held invalid because the accusatory portion charges a common law offense and the descriptive portion describes a statutory offense, or the converse if the offenses are of the same nature or are commonly known by substantially the same name.

5. The court may at any time cause the indictment to be amended in respect of any defect, imperfection or omission in the matter of form only.

S. B. 171. An Act relating to toll bridges.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

At any toll bridge where the Department of Highways is authorized to set the rates of toll to be collected, the rates and round trip privileges for a truck licensed in this State as a "farmer's truck" under the provisions of section 1, chapter 112 of the Acts of 1940, shall be the same as are applicable to passenger cars at that bridge.

S. B. 174. An Act providing for special committees to receive funds from public agencies which disburse funds for the maintenance and support of indigent persons.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. The circuit and county courts shall have jurisdiction within their respective counties, without impanelling a jury, to appoint a special committee, to receive funds from any state, Federal, city or county agency, which disburses funds for the maintenance and support of indigent persons, for any person who is a resident of their respective counties, or for any person who is confined in any of the charitable institutions in their respective counties, except that no such special committee shall be appointed under this Act to receive funds disbursed by the United States through the Veterans Administration or its successors.

§ 2. Such appointment shall be made only after a verified statement has been filed by a reputable citizen of the county, showing that the person is of unsound mind or by reason of alcoholism, drug addiction or from any other cause is so imbecile or of such unsound mind as to render him incompetent to receive, manage and disburse for his maintenance and support, funds which may be allotted to him by the state, Federal, city or county agency. The petition must be supported by the affidavit of some regular practicing physician showing that said person is incompetent as alleged therein.

§ 3. Such special committee shall execute a bond with surety approved by the court, but the court may in its discretion, with the written consent of the agency or agencies furnishing the maintenance or support, where the amount to be received by said special committee shall not exceed $200 per year, allow the special committee to qualify without surety on the bond.

§ 4. The special committee shall have authority to receive funds from the state, Federal, city or county agency, which furnishes funds for the maintenance and support of indigent persons, and shall receive and disburse them for the maintenance and support of his ward, and shall report to the court each year, showing the receipts and disbursements of all funds received by him from any of said sources.

§ 5. The total compensation of the special committee shall not exceed $3.00 per year. The cost of settlement shall not exceed the sum of $1.00 for recording it, and $1.00 to the county judge or examiner for examining and approving it.

§ 6. Laws applying to committees generally, if inconsistent with this Act, shall not apply to special committees appointed under this section.

S. B. 156. An Act relating to the employment and compensation of Clerk and Deputies and providing for the payment of certain fees into the County Treasury in counties having a population of less than seventy-five thousand and an assessed valuation of one hundred million and containing a city of the second class.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. In each county in this state having a population of less than seventy-five thousand and an assessed valuation of more than one hundred million and containing a city of the second class, the clerk of the county court shall have the right to appoint such deputies as may be necessary for the proper conduct of his office. The number appointed shall be approved by the fiscal court. The salaries of said deputy county clerks shall be fixed by the fiscal court of the county and shall be payable out of the county levies in equal monthly installments.

§ 2. Such appointment shall be made only after a verified statement directs the county clerk to have made in books

proper for that purpose general indexes of all records in the office of the county clerk according to system approved by the fiscal court. When the general indexes are thus completed they shall constitute the official indexes and the clerk of the county shall keep the indexes up to date by indexing therein the records of all property within one month from the date they are lodged for record, and when they are so indexed, the alphabetical cross index of such instruments need no longer be preserved and when such records or any part of them become defaced or injured, the clerk shall transcribe the defaced or injured records into new books, and they shall be as valid in law as the original record. The fiscal court may in its discretion require the county clerk and his deputies to make such indexes as provided by this act without additional compensation or may allow the said clerk for his services rendered by him and his deputies reasonable compensation.

Section 3. All fees collected by the clerk shall be paid to the Treasurer of the county at the end of each month and when such payments are made he shall file with the fiscal court an itemized list of the amounts collected by him during each month.

Section 4. In all such counties, if the county judge appoints the clerk of the county court, or any other person, to act as clerk of the quarterly court, then the clerk or person thus appointed, shall receive the fees now prescribed by law in full compensation for his services rendered as such clerk provided, however, that if the clerk of the county court is appointed, then the fees shall be paid into the county treasurer in the same manner as the other fees are paid under this act.

S. B. 59. An Act relating to jails and jailers.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 2229 of Carroll's Kentucky Statutes, 1936 Edition, is amended to read as follows:

(1) Each jailer shall have the custody, rule and charge of the jail in his county and of all persons in the jail and shall keep the same himself or by his deputy or deputies. He or one of his deputies shall reside not more than four hundred yards from the jail and where it is such as admits the residence of the same therein he or one of his deputies shall reside in the jail.

(2) A violation of this section or of § 2227 or § 2228 shall be deemed a misfeasance in office and the County Court may fine the jailer therefor, or he may be indicted and fined at the discretion of a jury.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, subsection (1) of section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 71.020, and shall thereafter be treated as an amendment to KRS 71.020 rather than an amendment to § 2229 of Carroll's Statutes; subsection (2) of section one of this Act shall then stand repealed and KRS 71.990 and 441.990 shall remain in full force and effect.

S. B. 130. An Act relating to reports made by the Auditor of Public Accounts.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§§ 4618-135 and 4636-4 of Carroll's Kentucky Statutes, 1936 edition, are consolidated and amended to read as follows:

§ 1. (1) Immediately upon completion of each audit and investigation, except those provided for in § 4636-1, the Auditor shall prepare a report of his findings and recommendations. He shall furnish one copy of the report to the

head of the agency to which the report pertains, one copy to the Governor, one copy to the Commissioner of Finance, and one copy to the State Librarian. He shall prepare and transmit to each member of the General Assembly, by December 15 immediately preceding the convening of each regular session of the General Assembly, a printed report on his activities, summarizing the findings and recommendations in his report on each audit or investigation made since the last preceding biennial report to the General Assembly, and presenting such other findings and recommendations as he sees fit to make. He shall file a copy of this report with the Governor and five copies with the State Librarian. All audit reports shall be public documents to which taxpayers shall have access.

(2) The Auditor shall, within a reasonable time after the examination of each county as provided in § 4636-1, make a written report to the Governor, the State Librarian and to the county judge of the county examined, calling attention in specific terms to any mismanagement, misconduct, misapplication or illegal appropriation or extravagant use of money received or disbursed by any officer of the county examined.

(3) The reports required to be filed with the State Librarian by this section shall be kept in the Legislative and Law Library for the use of the public.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 43.090, and shall thereafter be treated as an amendment to KRS 43.090 rather than an amendment to §§ 4618-135 and 4636-4, and the number "KRS 43.070" shall be substituted for § 4636-1 in section one of this Act.

S. B. 128. An Act amending and re-enacting Section 1649b-3 of Carroll's Kentucky Statutes, Baldwin's Revision, relating to the inadmissibility of confessions obtained by sweating.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Section 1649b-3 of Carroll's Kentucky Statutes, Baldwin's Revision of 1930, be and the same is amended and re-enacted, and as so amended and re-enacted shall read as follows:

Section 1649b-3. Not admissible. No confession obtained by means of sweating, as defined herein, shall be permitted as evidence in any court in this state, but same shall be deemed to have been obtained by duress, if it be shown that such confession was made after the arrest of the party charged with crime and while he was in custody of the law. The trial judge shall determine the competency and admissibility of any alleged confession under the provisions of this statute from evidence heard by him, independent of and without the hearing of the jury trying the case.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall stand repealed as of the effective date of the Kentucky Revised Statutes, and the following shall take effect in lieu thereof:

A confession obtained by methods prohibited by Section one is not admissible as evidence of guilt in any court. The trial judge shall determine the competency and admissibility of any alleged confession under the provisions of this section from evidence heard by him, independent of and without the hearing of the jury trying the case.

The provision so substituted by this section shall thereafter be treated as an amendment to subsection (2) of KRS 422.110 rather than an amendment to § 1649b-3 of Carroll's Statutes, and subsection (1) of KRS 422.110 shall remain in full force and effect and shall not be treated as affected by this Act.

S. B. 141. An Act revising and establishing provisions for the sale of real property of infants and persons of unsound mind; and repealing and amending inconsistent provisions of the Code of Civil Practice and Kentucky Statutes.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 489 of the Civil Code of Practice is repealed and the following is enacted in lieu thereof:

Section 489. *Sale of Real Estate of Infants and persons of unsound mind.*

1. *Purposes of Sale.* The real property or any right, title or interest in real property of a person under the age of twenty-one years, or of a person of unsound mind, may be sold under or by decree of a court of equity of the county in which the property or any part thereof is situated for any purpose deemed by the chancellor to be necessary or proper or beneficial to such person under disability.

2. *Parties.* The decree may be rendered on a petition, counterclaim or cross petition filed by the statutory guardian of an infant or by the committe of a person of unsound mind, or filed by any party against such guardian or committee, in any kind of similar proceeding that may be maintained against a person who is not under disability. It shall not be necessary for the person under disability to be made a party personally.

If such infant or person of unsound mind has no guardian or committee, the county court having jurisdiction to appoint such fiduciary may, upon motion of any interested person, appoint a temporary guardian or committee for such person under disability for the purpose of representing him in the suit. The motion shall fully disclose the purpose of the appointment; otherwise, the proceeding shall be in accordance with that prescribed for the appointment and qual-

ification of a permanent guardian or committee. The temporary guard or committee so appointed shall execute a bond to the Commonwealth for the use and benefit of the person under disability, with good surety, approved by the court, faithfully to discharge his trust. The bond shall be of an amount equal to the approximate value of the property sought to be sold. An attested copy of such bond shall be filed with the pleading. Such temporary guardian or committee shall have and exercise the same rights and duties in respect to the proceedings to sell the real property as a regular guardian, committee or curator. The circuit court shall allow him reasonable compensation, commensurate with his services, to be taxed as costs of the suit.

3. *Process.* Summons and notices in the suit may be served upon such guardian or committee or temporary guardian or committee, and same shall constitute service upon the person under disability and have the same effect as if such process had been served on a party who is sui juris.

Provided: If the suit be filed by or against a temporary guardian notice thereof and a copy of the pleading seeking the sale shall be served (a) upon the minor if he is over fourteen years of age; (b) upon the father or mother or person in loco parentis as is provided in Section 52 of the Civil Code of Practice if the minor is fourteen years of age or younger. If the suit be filed by or against a temporary committee notice thereof and a copy of the pleading shall be served (a) upon the person of unsound mind if he is not confined in an institution for the insane or feeble minded and is not under treatment of a physician who certifies that in his opinion the service would be injurious to such person; (b) if he has been so committed or is under such care of a physician, then upon the superintendent of the institution in which he is confined, or upon such physician, and also, in either condition, upon the husband or wife, or the next of kin of such lunatic residing in the county of his residence. Any such

person, as the natural guardian or representative of the person under disability, may become a party to the suit.

4. *Substance of the pleading.* The pleading seeking a sale shall file the title papers, or copies thereof, under which the property is held; shall particularly describe the property and the interest therein of the person under disability; set forth fully the reasons or purposes for which it is sought to have the same sold; and the nature and extent of all liens upon the interest of the person, if any, so far as the same may be known to the petitioner. The pleading shall designate the natural guardian or representative described in subsection 3 hereof, upon whom notice shall be served. The pleading shall be verified as required by sections 116 and 117 of this Code.

5. *Proof required.* The allegations of the pleading shall not be taken as confessed but shall be proved by competent evidence heard orally by the chancellor or on deposition. A transcript thereof shall be filed as a part of the record.

6. (a) *Discharge of temporary guardian or committee.* The circuit court may discharge a temporary guardian or committee if it appears he is not faithfully discharging his trust, or that the interests of the person under disability are not being protected, and appoint another, who shall execute a similar bond in the circuit court with the same effect as if originally executed.

(b) *Approval of bond.* Before entering judgment of sale the circuirt court shall approve or disapprove his bond by an order. If he disapproves it he shall require the execution of a satisfactory bond, which shall be retroactive in effect. Failure to execute the same within a time fixed by the court shall be cause for dismissal of the guardian.

(c) *Payment of proceeds—Bond.* None of the proceeds of any sale shall be paid over to a temporary guardian or committee. Same may be paid to a guardian or committee

provided that he shall execute in the circuit court a bond with surety to the Commonwealth for the use and benefit of the person under disability that he will faithfully discharge his trust and will account for, pay and deliver to said person all money and other property due or belonging to him when he shall reach his majority, or if he be a person of unsound mind when he shall be legally restored, or to his heirs or personal representative, or in compliance with an order of any court of competent jurisdiction. The court shall endorse its approval on said bond, which shall be recorded on the order book.

(d) *Court to protect rights.* The court shall at all times enter such orders as will conserve and protect the rights of the person under disability.

7. *Judgment—Guardian or Committee may make sale.* Subject to the above conditions, judgment may be rendered and executed in the same manner and on the same terms as judgments in similar cases where no person under disability is a party.

Provided, that (a) the court may in its discretion authorize the permanent guardian or committee of such person to make said sale at public auction upon such terms and conditions as the court may order, and to convey title thereto; or (b) if the land or interest to be sold be of an appraised value of less than $1,000, the court may, in its discretion, authorize such fiduciary to make the sale privately and convey title; subject, however, to the approval of the chancellor before consummation.

8. *Private sale—Approval of Court.* The guardian of an infant or the committee of a person of unsound mind may sell privately and convey any interest in real estate owned by a ward for such reasons and purposes and upon such terms and conditions as he shall deem best for the interest of said ward. Provided, however, that no such sale shall be consummated until same shall have been approved by the judge of the

circuit court in the county where the land or a portion thereof is situated in a suit in equity filed by the guardian or committee against said infant or person of unsound mind. The petition shall set forth the reasons and purposes of the sale and the terms thereof.

A guardian ad litem shall be appointed for the infant or person of unsound mind. Proof shall be taken only on notice to said guardian ad litem. It may be taken by depositions or orally before the chancellor and thereafter transcribed and filed in the record of the case. The guardian ad litem shall make a defense or file a report stating that after careful exmination of the case he is unable to make a defense.

If the chancellor shall deem the sale advisable and the terms and price satisfactory, he shall enter an order approving the same: provided, however, that the judgment shall not be entered until the guardian or committee shall have executed a bond, with approved surety, in an amount not less than the purchase price of the land, providing that he will faithfully discharge all his duties as such guardian or committee and will comply with the judgment and orders of the court, and account for, pay and deliver the proceeds of the sale or property in which it shall be invested to his ward or other person entitled thereto. The bond shall be approved by the court and recorded in the order book.

This proceeding may be tried and judgment rendered in accordance with the provisions of Section 964b-1, Kentucky Statutes.

9. *Proceeding not void—exception.* No defect or error in the proceeding shall render the judgment or sale void unless the same is of the nature and character that would render the proceeding void if all parties were sui juris.

10. *Exclusive procedures.* It is the intent of this section to provide exclusive procedures for the sale and conveyance of real property of persons under disability except where same may be authorized by the terms of a will, deed or trust under which title is held.

Section 2. Section 491 of the Civil Code of Practice is hereby amended so that as amended it shall be as follows:

Sec. 491. *Reversion or remainder may be sold.* In an equitable action by the owner of a particular estate of freehold in possession, or by a guardian or committee as provided in Section 489, against the owner of the reversion or remainder, though he be an infant or of unsound mind, and against the owner of the particular estate if he be an infant or of unsound mind; or, if the remainder be contingent, against the person, if in being, in whom it would have vested if the contingency had happened before commencement of the action, though he be an infant or of unsound mind, and against the owner of the particular estate if he be an infant or of unsound mind—real property may be sold for investment of the proceeds in other real property.

The court ordering the sale shall, by its commissioner, retain the custody and control of the fund realized by the sale until the same is re-invested in real estate, or in such other property as the funds of persons under disability may be invested in authority of law, and the court shall order the money to be paid, by its commissioner, directly to the person from whom the purchase for reinvestment is made; or the court may authorize payment of the proceeds of sale of land of an infant or person of unsound mind to his guardian or committee as provided in Section 489, subsection 6 (c).

Section 3. Section 497 of the Civil Code of Practice is hereby repealed and re-enacted so that same shall be:

*Sec. 497. Payment of purchase money.*

*1. Lien on land.* Where the real property or any interest therein of an infant or person of unsound mind shall be sold under the provisions of section 489, a lien shall remain on the land to secure the payment of his share of the proceeds until same shall be paid.

*2. Collection of interest.* The court may permit the guardian or the committee to receive the interest accruing on

the unpaid purchase money without executing the bond provided in Section 489, subsection 6 (c).

*3. Collection of proceeds.* The infant upon becoming of age, or the person of unsound mind upon his restoration to sound mind, or the guardian or committee upon executing bond as provided in section 489, subsection 6 (c), may collect and receive the proceeds as same shall become due.

*4. Purchaser may pay bonds.* The purchaser upon maturity of any bond or portion of the purchase price may pay the amount due into court. If the guardian or the committee does not execute bond as provided in section 489, subsection 6 (c) so that same may be paid over to him, the court shall direct the investment of such proceeds by the master commissioner or receiver of the court, under supervision of the court, until the guardian or the committee shall qualify to receive the same, or the infant or person of unsound mind shall become competent to receive the same personally.

Section 4. Paragraphs 2 and 3 of Section 53, Sections 489, 492, 493, par. 5 of 494, 497, 498 and 574 of the Civil Code of Practice, and Sections 2150 and 2150a, Carroll's Kentucky Statutes, and all other laws or parts of laws in conflict with this act are hereby repealed. Provided, however, that this act shall not affect any suit or proceeding instituted before it goes into effect. Any pending suit may proceed to completion in accordance with the existing law under which it was brought.

Section 5. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, this Act shall be treated as repealing KRS 387.240 and subsection (2) of KRS 387.140, regardless of the date of enactment or taking effect of the Kentucky Revised Statutes, and the reference to Section 964b-1 of Carroll's Statutes in subsection 8 of section 489 of the Civil Code shall be treated as being made to KRS 23.150.

Ordered that said bills be printed and referred

To Committee on Rules.

And that they had passed bills which originated in this House, entitled:

H. B. 146. An Act relating to the establishment and operation of electric power systems and facilities.

H. B. 99. An Act pertaining to trial commissioners to be appointed by county judges.

With an amendment thereto as proposed and adopted by the Senate.

H. B. 84. An Act relating to drainage districts.

With an amendment thereto by way of Substitute therefor as proposed and adopted by the Senate.

Ordered that H. B. 146 be delivered to the Enrolling Clerk of this House.

Ordered that H. B. 99 and H. B. 84 be laid on the Clerk's desk.

Mr. Henry Ward moved that the Rules of this House be suspended and that the House proceed with the Orders of the Day.

Said motion was agreed to.

Thereupon the House took up for consideration from the Calendar, bills and a resolution of the following titles, viz.:

H. Res. 32. Resolution providing for payment of ministers of the churches of Frankfort.

H. B. 291. An Act to repeal, amend and re-enact Sec. 965-a1 Carroll's Kentucky Statutes.

H. B. 317. An Act requiring cities and taxing districts to keep a record of all tax bills etc.

H. B. 327. An Act relating to the date when drainage assessments become delinquent, etc.

H. B. 339. An Act relating to taxation of insurance companies.

S. B. 5. An Act to protect property by making criminal certain unlawful entries.

S. B. 44. An Act to enable any county of this Commonwealth through its fiscal court to purchase, etc., voting machines.

S. B. 52. An Act to amend Sec. 584 of Carroll's Kentucky Statutes.

S. B. 81. An Act to amend and re-enact Chapter 155, Kentucky Acts, 1940.

Ordered that said bills and resolution be read the second time.

The Constitutional provision as to the second reading of said bills and resolution at length having been dispensed with, said bills and resolution were read the second time by their titles only.

Ordered that said bills and resolution be placed in the Orders of the Day.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

S. B. 4. An Act providing for the consolidation of counties.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

1. When a petition signed by not less than five percent (5%) of the registered legal voters of any County, and no petition shall be signed by less than 200 legal voters of any County shall be filed at a regular term of the county court thereof, asking that said county be consolidated with a named adjoining county, it shall be the duty of the county court to notify the county court of the adjoining county. If within six months from the time of said notice of the first county to the second county a petition, similarly signed by not less than five percent (5%) of the registered legal voters of any County, and no petition shall be signed by less than 200 legal voters of any County, has been filed, for the consolidation of the two counties, the county court of the second county shall notify the county court of the first county of such action.

2. If such a petition is filed with the county court of the second county more than six months from the time of the filing of the petition in the first county, the petition filed in the first county shall be of no effect, but a new petition, signed as provided in the previous section may be filed in the first county, and, if it is filed within six months of the filing of the petition in the second county, it shall be effective for the purpose of authorizing the calling of an election in each county as provided in the following section.

3. If such a petition is filed in the second county within six months of the filing of the petition in the first county, or if a new petition is filed in the first county within six months of the filing of the petition in the second county, it shall be the duty of each of the county courts of the two counties, by orders entered of record, to call an election to be held, and direct a poll to be taken in the various precincts in each county on the day of the election to be held in said counties on the first Tuesday after the first Monday in November

following the filing of the petition as provided herein, which does not occur within less than ninety days of the time of the filing of an effective petition in the county in which one is last filed, at which election the proposition for the consolidation of the two named counties shall be submitted to the legal voters of each of the two counties for their approval or rejection.

4. It shall be the duty of the county court of each county, by order of record, to direct the sheriff of that county to advertise said election, and the object thereof, in the newspapers published in the county, and if none should be published therein, then by printed handbills posted up at not less than four of the most public places in each precinct and at the court house door.

5. It shall be the duty of the officers of said election in each voting precinct to hold said election the same hours they are by law required to hold election for county officers and said election shall be held and conducted in all respects under the general election laws obtaining in this Commonwealth at the time of the election.

6. The result of the election in each county shall be certified by the county election commissioners to the county judge in each county. If a majority of the voters of each county, voting on the proposition, approve the consolidation, the county judge of each county shall, within 30 days after the election, appoint a commission to be composed of three voters of the county for the purpose of dividing the area of the new county into districts for the election of members of the fiscal court for the new county. The said commissioners representing the two counties shall meet together within fifteen (15) days after their appointment and proceed to divide the area of the new county into three districts, each to be as nearly equal in area and population as possible. The commissions also shall select not less than two and not more than three names for the new county, and shall select not less than two nor more than three sites for the county seat of the new

county. The report of the commissions, which shall act jointly, shall be filed with the county court of each county not less than ninety (90) days after the appointment of the commissions.

If, at the expiration of ninety days after the six commissioners have been appointed as provided for herein, a majority of said commissioners have failed to agree upon the selection of three names for the proposed county or three places for the county seat to be submitted to the voters of the county as provided for herein, the Governor of the Commonwealth of Kentucky shall appoint a seventh person to act as Chairman of said Board of Commissioners and said Chairman shall not have a vote on any question except in case of tie vote. The report of the Commissioner, when Chairman is appointed, shall be filed with County Court of each County, not less than thirty (30) days after appointment of chairman.

7. The report of the commissions shall be entered on the records of each county court. At the next general election to be held in the counties for the election of county officers, officers for the new county shall be chosen. Said election shall be held and conducted in all respects under the general election laws obtaining in this Commonwealth at the time of the election. Members of the fiscal court for the new county shall be elected, one from each of the three districts created by the commissions, under the provisions of the act providing for the election of county commissioners under the commission form of government for the counties, or any amendments thereto.

8. At the general election for the election of new officers for the new county, the voters of the combined area to be embraced within the new county shall select a name for the new county and a site for the county seat from among the names and sites recommended by the commissions as provided herein. The question of the selection of a name and

county seat for the new county shall be submitted to the voters on the ballot for the election in the following form:

"I am in favor of

..... ☐
..... ☐
..... ☐

(These spaces shall be filled in with the names for the new county recommended by the commissions.)

As the name for the new county to be formed by the consolidation of ..... and ..... counties. (Fill in these spaces with the names of the two counties to be consolidated.)

"Note To Voter: Indicate your choice by stamping in the box opposite the name you select.

I am in favor of

..... ☐
..... ☐
..... ☐

(These spaces shall be filled in with the names of the sites for the county seat of the new county recommended by the commissions) as the site for the county seat of the new county formed by the consolidation of.....and..... Counties." (Fill in these spaces with the names of the two counties to be consolidated.)

"Note to Voter: Indicate your choice for the county seat by stamping in the box opposite the name of the site you favor."

The new county shall bear the name approved by the majority of the voters of the combined area of the new county, voting on the proposition, and the county seat of the new county shall be located at the site approved by the majority of the voters of the combined area of the new county voting on the proposition. The name of the county shall not be changed thereafter, and the county seat shall not be changed

thereafter, except as authorized by sections nine-hundred fifteen to and including nine-hundred eighteen, Carroll's Kentucky Statutes, 1936 Edition.

Whenever an election is held in any County on the question of Consolidation of such County, with any other County, no election affecting the Consolidation of said County shall be held within four years thereafter, except the election as provided for in Sections 7 and 8 thereof.

9. The territory formerly embraced with each of the old counties is hereby made into a separate special taxing district with power to levy and collect taxes, and the separate debt of each county shall be a first lien on the territory formerly embraced within that county. The fiscal court of the new county shall fix the rate of tax levy for each of the two special taxing districts, and the property within each shall be assessed and the taxes collected by the same county officers of the new county, and in the same manner that the law provides for the assessment of property and the collection of taxes by counties. The money collected as taxes for each of the special taxing districts shall be kept separate and shall be used only in payment of the debts of the old county that formerly embraced the territory of that special taxing district.

10. Where the two old counties were in the same representative, senatorial, circuit court, judicial, congressional, or railroad commissioner district or districts, the new county shall remain in the same district or districts. Where the two old counties were not in the same district or districts, the new county shall be placed in the following district or districts: In the representative, senatorial, circuit court, judicial, congressional, or railroad commissioner district or districts, respectively, in which the old county, having the largest population, was located; provided, that if each of the two old counties was a separate district the new county shall be divided into two such districts, each district to be cotermi-

nous with the boundary lines of the old counties; provided further, that if any of the election districts formed under the provisions of this act as a result of county consolidation are in violation of the requirements of the Constitution, such consolidation shall not be effective unless the General Assembly, at its first session after the consolidation, shall redistrict the state in compliance with the provisions of the Constitution.

11. All records of the old counties shall be turned over to the proper officials of the new county, and the new county may purchase any of the supplies or equipment of either or both of the old counties.

Mr. Scheben offered the following amendment to said bill, viz.:

Amend S. B. 4 in House on page 6, section 11, lines 1, 2 and 3 by striking out all of section 11 and inserting in lieu thereof the following:

"Section 11. All records, supplies and equipment of the old counties shall be turned over to the proper officials of the new county.

Section 12. In case of the consolidation of counties as provided in this Act, the counties as consolidated shall constitute one county school district and the members of the boards of education of the county school districts thus consolidated may serve out the terms for which they were elected and qualified. The board of education of this consolidated district shall operate the schools of said district in accordance with the laws providing for the operation of county school districts.

The district resulting from the consolidation of said school districts shall take over all the assets and legal liabilities of the districts joining in the consolidation; the tax levy authorized for the payment of interest and the retirement of bonds or the provision for sinking funds for such purposes shall continue to be levied and collected over the same area

by or for the new board in accordance with the laws under which the levies were originally made until all bonded obligations of the old district or districts shall have been retired.

The county superintendents in office at the time of said consolidation may serve for the remainder of their contract periods. They shall cast lots at the first meeting of the new board of education to determine which one will serve as superintendent and which one will serve as assistant superintendent for this remaining contract period.

Section 13. In case either, or both, of the counties that have consolidated under the provisions of this Act has a county health department, county library board, water district board, and other similar county agencies, the members thereof shall serve out the terms for which they were respectively elected. In case both counties have a board of the same type the consolidated county shall constitute a consolidated territory for the purpose of exercising all the functions of such boards, and such boards shall operate together as one board until the expiration of the terms of all members. Provision shall be made for the election of a new board for the consolidated county as the expiration of the terms of the old members requires. In case only one of the counties has a board of the type contemplated by this section the authority of such board shall be restricted to the confines of the territory that composed the original territory.

Said amendment was agreed to.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length having been dispensed with, said bill was read the third time by its title only and passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| W. T. Beard | Chas. O. Humston | Kleber F. Price |
| Robert E. Beatty | W. H. Hunt | James E. Quill |
| Rell Bevins | Crow Jarvis | L. Allen Rhoads |
| Douglas T. Bolling | John S. Juett | Dr. J. J. Rice |
| H. M. Brock, Jr. | W. A. Lamkin | Carl Scheben |
| Gus A. Brooks | A. L. Love | Leon J. Shaikun |
| T. Fowler Combs | Harry K. Lowman | Faust Y. Simpson |
| M. A. Cornett | Hugh D. Lyon | Charles L. Spilman |
| Rev. W. W. Crouch | Norris McPherson | James D. Stacey |
| Guthrie F. Crowe | J. Milton Mefford | J. Claude Stacy |
| Pink G. Curd | J. Lee Moore | R. C. Stephenson |
| Forest C. Easley | C. E. Montgomery | Roy L. Taylor |
| T. P. Fitzpatrick | F. E. Morancy | Rev. H. Tinsley |
| W. W. Freeman | E. R. Morlidge | S. J. Wagner |
| Bert Hall | Coy Nevitt | Harry Walters |
| E. R. Hilton | Robert Nicholas | Henry Ward |
| Clyde S. Howard | H. C. Patterson | —50 |

Those who voted in the negative were—

| | | |
|---|---|---|
| Sherman E. Carter | William L. Jones | Byron H. Royster |
| Oris Cooper | H. W. Linville | Thomas M. Swope |
| John Henry Cox | Ed. Marcum | Egbert Taylor |
| John D. Fields | D. J. Moore | Erna E. Tyra |
| A. G. Hamilton, Jr. | L. D. Moore | H. A. Ward |
| Fuller Harding | Paul Pelfrey | H. L. Waterfield |
| Jerry F. Howell | B. W. Porter | |
| Joe B. Jarboe, Jr. | Wade H. Riley | —22 |

Resolved that the title thereof be as aforesaid.

Mr. Scheben moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 107. An Act relating to limitation of actions, and providing that actions instituted to foreclose liens created to secure street improvement bonds shall be brought within five years from the maturity date of the bond or bonds on which the action is instituted, and declaring an emergency to exist.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Actions to foreclose liens created to secure street improvement bonds issued pursuant to the provisions of §§ 3458, 3459, 3575, 3577, 3643-5, 3643-6, 3643-7, 3643-9 and 3706 of Carroll's Kentucky Statutes 1936 Edition, and §§ 2741e-12 to 2741e-23 of Baldwin's 1939 Supplement to Carroll's Kentucky Statutes, must be brought within five years from the maturity date of such bonds.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, the numbers "KRS 94.330, 94.350, 94.380, 94.450, 94.460, 94.470, 94.480, 94.490, 94.620, 94.630, 94.640 and 94.650" shall be substituted for the words and figures "§§ 3458, 3459, 3575, 3577, 3643-5, 3643-6, 3643-7, 3643-9 and 3706 of Carroll's Kentucky Statutes, 1936 edition, and §§ 2741e-12 to 2741e-23 of Baldwin's 1939 Supplement to Carroll's Kentucky Statutes," in section one of this Act.

§ 3. WHEREAS, a number of municipalities in Kentucky which issued street improvement bonds pursuant to the provisions of the Statutes hereinabove referred to have failed to keep sufficient records to enable bondholders to ascertain the amount paid or date of payments made by the respective abutting property owners, and

WHEREAS, a number of the bondholders are nonresidents to whom books and records are inaccessible, and

WHEREAS, a state of confusion exists as to the liability of the various abutting property owners resulting in a multiplicity of suits to determine such liability an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor, and the provisions shall determine the period of limitations in all actions to foreclose such liens which are now pending.

Mr. Simpson offered the following amendments to said bill, viz.:

1. Amend H. B. 107 on page 1, Section 1, lines 4 and 5 by striking out the following words and figures:

"and Sections 2741e-12 to 2741e-23 of Baldwin's 1939 Supplement to Carroll's Kentucky Statutes."

2. Amend H. B. 107 on page 2, section 2 lines 6 and 7 by striking out the following words and figures:

"and Section 2741e-12 to 2741e-23 of Baldwin's 1939 Supplement to Carroll's Kentucky Statutes."

Said amendments were each agreed to.

Ordered that said bill be engrossed and read the third time.

The Constitutional provsion as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Douglas T. Bolling | M. A. Cornett |
| Henry Arrowood | H. M. Brock, Jr. | John Henry Cox |
| W. T. Beard | Gus A. Brooks | Rev. W. W. Crouch |
| Robert E. Beatty | Sherman E. Carter | Guthrie F. Crowe |
| Rell Bevins | T. Fowler Combs | Forest C. Easley |

| | | |
|---|---|---|
| T. P. Fitzpatrick | Norris McPherson | Dr. J. J. Rice |
| W. W. Freeman | Dr. Wm. C. Mann | Wade H. Riley |
| Joseph J. Grace | Ed. Marcum | Dr. K. N. Salyer |
| Bert Hall | C. C. May | Carl Scheben |
| A. G. Hamilton, Jr. | J. Milton Mefford | Leon J. Shaikun |
| Fuller Harding | Sam Milam | Faust Y. Simpson |
| E. R. Hilton | D. J. Moore | Otto Smither |
| Clyde S. Howard | J. Lee Moore | Charles L. Spilman |
| Chas. O. Humston | L. D. Moore | James D. Stacey |
| W. H. Hunt | C. E. Montgomery | J. Claude Stacy |
| Joe B. Jarboe, Jr. | F. E. Morancy | R. C. Stephenson |
| Crow Jarvis | E. R. Morlidge | C. W. Taylor |
| William L. Jones | Coy Nevitt | Egbert Taylor |
| John S. Juett | Robert Nicholas | Roy L. Taylor |
| W. A. Lamkin | Paul Pelfrey | S. J. Wagner |
| H. W. Linville | B. W. Porter | H. A. Ward |
| A. L. Love | James E. Quill | H. L. Waterfield |
| Hugh D. Lyon | L. Allen Rhoads | —68 |

There voted in the negative—

Henry Ward —1

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said motion was agreed to.

By Order of the Speaker and without objection, the session of today was extended indefinitely.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 264. An Act relating to finance and revenue of counties and cities.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 4281u-5 of Carroll's Kentucky Statutes, 1936 Edition, is amended to read as follows:

Section 1. Where the special object or purpose for which a tax was levied and collected has been accomplished, completed and finished, any amount remaining in the special fund shall pass to and become a part of the general revenue fund of the county or city. In any county and in any city of the third, fourth, fifth or sixth class where all or any part of a special fund so transferred to the general fund remains unexpended and has not been commingled with other funds in such a way as to lose its identification, the county or city may return the same to a special reserve fund for an object or purpose similar to that for which the fund was originally accumulated and may invest the same in investments in which other funds of the county or city may lawfully be invested until such time as it is necessary to expend the fund for such purpose.

Section 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall stand repealed as of the effective date of the Kentucky Revised Statutes; KRS 68.120 shall be treated as amended to read as follows:

"Where the special object or purpose for which a tax was levied has been accomplished, any amount remaining in the special fund shall become a part of the general revenue fund of the county. In any county where all or any part of a special fund so transferred to the general fund remains unexpended and has not been commingled with other funds in such a way as to lose its identification, the county may return the same to a special reserve fund for an object or purpose similar to that for which the fund was originally accumulated and may invest the same in investments in which other funds of the

county may lawfully be invested until such time as it is necessary to expend the fund for such purpose,"
and subsection (4) of KRS 92.360 shall be treated as amended to read as follows:

"Where the special object or purpose for which a tax was levied by any city of the third to sixth class has been accomplished, any amount remaining in the special fund for that tax shall become a part of the general revenue fund of the city. In any city of the third, fourth, fifth or sixth class where all or any part of a special fund so transferred to the general fund remains unexpended and has not been commingled with other funds in such a way as to lose its identification, the city may return the same to a special reserve fund for an object or purpose similar to that for which the fund was originally accumulated and may invest the same in investments in which other funds of the city may lawfully be invested until such time as it is necessary to expend the fund for such purpose."

Mr. Grace moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provisions as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Rell Bevins | T. Fowler Combs |
| Henry Arrowood | H. M. Brock, Jr. | Oris Cooper |
| W. T. Beard | Gus A. Brooks | M. A. Cornett |
| Robert E. Beatty | Sherman E. Carter | John Henry Cox |

| | | |
|---|---|---|
| Rev. W. W. Crouch | Norris McPherson | Wade H. Riley |
| Guthrie F. Crowe | Dr. Wm. C. Mann | Dr. K. N. Salyer |
| Pink G. Curd | Ed. Marcum | Carl Scheben |
| John D. Fields | J. Milton Mefford | Leon J. Shaikun |
| T. P. Fitzpatrick | D. J. Moore | Faust Y. Simpson |
| W. W. Freeman | J. Lee Moore | Otto Smither |
| Joseph J. Grace | L. D. Moore | Charles L. Spilman |
| P. Bert Hall | C. E. Montgomery | James D. Stacey |
| A. G. Hamilton, Jr. | F. E. Morancy | R. C. Stephenson |
| Fuller Harding | E. R. Morlidge | Thomas M. Swope |
| E. R. Hilton | C. Sid Nabb | Egbert Taylor |
| Clyde S. Howard | Paul Pelfrey | S. J. Wagner |
| W. H. Hunt | Kleber F. Price | C. R. Walden |
| Crow Jarvis | James E. Quill | H. A. Ward |
| W. A. Lamkin | L. Allen Rhoads | Henry Ward |
| Hugh D. Lyon | Dr. J. J. Rice | H. L. Waterfield |

—60

Those who voted in the negative were—

Joe B. Jarboe, Jr. Coy Nevitt —2

Resolved that the title thereof be as aforesaid.

Mr. Grace moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 205. An Act relating to casualty insurance for volunteer firemen.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Any municipality may, at the discretion of its governing body, provide for accident and death benefits for

the members of volunteer fire departments by the purchase of standard casualty insurance, insuring such members while acting in the line of duty.

Mr. Quill moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Fuller Harding | J. Lee Moore |
| W. T. Beard | E. R. Hilton | L. D. Moore |
| Robert E. Beatty | Clyde S. Howard | C. E. Montgomery |
| Rell Bevins | Jerry F. Howell | F. E. Morancy |
| Douglas T. Bolling | Chas. O. Humston | C. Sid Nabb |
| H. M. Brock, Jr. | W. H. Hunt | Coy Nevitt |
| Gus A. Brooks | Joe B. Jarboe, Jr. | Robert Nicholas |
| Sherman E. Carter | Crow Jarvis | H. C. Patterson |
| Oris Cooper | William L. Jones | Paul Pelfrey |
| M. A. Cornett | John S. Juett | B. W. Porter |
| Rev. W. W. Crouch | W. A. Lamkin | Kleber F. Price |
| Guthrie F. Crowe | A. L. Love | James E. Quill |
| Pink G. Curd | Hugh D. Lyon | L. Allen Rhoads |
| Forest C. Easley | Norris McPherson | Dr. J. J. Rice |
| John D. Fields | Dr. Wm. C. Mann | Dr. K. N. Salyer |
| T. P. Fitzpatrick | Ed. Marcum | Carl Scheben |
| W. W. Freeman | C. C. May | Leon J. Shaikun |
| P. Bert Hall | J. Milton Mefford | Otto Smither |
| A. G. Hamilton, Jr. | D. J. Moore | Charles L. Spilman |

| | | | |
|---|---|---|---|
| James D. Stacey | Rev. H. Tinsley | H. A. Ward | |
| R. C. Stephenson | Erna E. Tyra | Henry Ward | |
| C. W. Taylor | S. J. Wagner | H. L. Waterfield | |
| Egbert Taylor | C. R. Walden | | |
| Roy L. Taylor | Harry Walters | | —70 |

Resolved that the title thereof be as aforesaid.

Mr. Quill moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

S. B. 89. An Act relating to Old Age Assistance.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky*:

§ 1. All applications for Old Age Assistance, and all records concerning applicants for, or recipients of, Old Age Assistance, including the names and addresses of such applicants or recipients, shall be confidential and the Department of Welfare shall establish and enforce rules and regulations governing the custody, use, and preservation of all records, papers, files and communications relating to Old Age Assistance, and to the names and addresses of applicants therefor and recipients thereof.

§ 2. No disclosure of the names and addresses of applicants for Old Age Assistance, or recipients of Old Age Assistance, or of any information relating to any applicants for, or recipients of, Old Age Assistance, or of any file, record, report, paper, information or other intelligence relating to such applicants or recipients obtained at any time by the Department of Welfare or by its officers or employes in the dis-

charge of their duties; and no disclosure at any time of any such names, addresses, files, reports, records, or other papers, information or intelligence obtained at any time by any person from the Department of Welfare, or any officer or employe thereof, or from any record, file, report, paper, or other information or intelligence of the said Department of Welfare, shall be made except as the Department of Welfare may by its rules and regulations prescribe.

§ 3. Any person who violates any of the provisions of this Act shall be fined not less than fifty dollars nor more than two hundred dollars, or imprisoned for not more than six months, or both.

§ 4. Section 5 of Chapter 159 of the Acts of 1940 is repealed.

§ 5. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section 4 of this Act shall be treated as repealing KRS 205,060, regardless of the date of enactment or taking effect of the Kentucky Revised Statutes.

Mr. Ward offered the following amendment to said bill, viz.:

Amend S. B. 89 in House as follows:

Add the words "Aid to Dependent Children and Needy Blind" in the following places:

before the word "and" in line 1, page 1, Section 1
before the word "including" in line 2, page 1, section 1
before the words "and to" in line 7, page 1, section 1
before the words "or reciprocate" in line 2, page 1, sec. 2
before the words "or of" in line 2, page 1, section 2
before the words "or of" in line 4, page 1, section 2

Said amendment was agreed to.

Mr. Henry Ward moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Chas. O. Humston | Kleber F. Price |
| Henry Arrowood | Joe B. Jarboe, Jr. | James E. Quill |
| Robert E. Barry | William L. Jones | L. Allen Rhoads |
| W. T. Beard | John S. Juett | Dr. J. J. Rice |
| Robert E. Beatty | W. A. Lamkin | Wade H. Riley |
| Rell Bevins | H. W. Linville | Dr. K. N. Salyer |
| Douglas T. Bolling | A. L. Love | Carl Scheben |
| Gus A. Brooks | Hugh D. Lyon | Leon J. Shaikun |
| T. Fowler Combs | Norris McPherson | Faust Y. Simpson |
| John Henry Cox | Ed. Marcum | Otto Smither |
| Rev. W. W. Crouch | C. C. May | Charles L. Spilman |
| Guthrie F. Crowe | J. Milton Mefford | James D. Stacey |
| Pink G. Curd | D. J. Moore | J. Claude Stacy |
| Forest C. Easley | J. Lee Moore | R. C. Stephenson |
| Harry W. Ennis | C. E. Montgomery | Egbert Taylor |
| T. P. Fitzpatrick | E. R. Morlidge | Roy L. Taylor |
| W. W. Freeman | C. Sid Nabb | Rev. H. Tinsley |
| Fuller Harding | Coy Nevitt | S. J. Wagner |
| Joe Higgins | Robert Nicholas | Harry Walters |
| E. R. Hilton | Paul Pelfrey | Henry Ward |
| Clyde S. Howard | B. W. Porter | —62 |

Those who voted in the negative were—

| | | |
|---|---|---|
| H. M. Brock, Jr. | Dr. Wm. C. Mann | Erna E. Tyra |
| Sherman E. Carter | Byron H. Royster | C. R. Walden |
| Oris Cooper | C. W. Taylor | H. L. Waterfield |

—9

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Beard of the Committee on Enrollment reported that they had examined and found to be correctly enrolled, a bill entitled:

H. B. 128. An Act relating to the commission form of government in cities of the fifth and sixth classes.

Thereupon all other business was suspended, said bill was read at length and compared in open session and found to be correctly enrolled and thereupon the Speaker, in open session and in the presence of the House, affixed his signature thereto.

Ordered that the Enrolling Clerk of this House deliver said bill to the Senate.

After a time the Enrolling Clerk aforesaid delivered the original and enrolled copies of said bill duly signed by the President of the Senate into the possession of the Chief Clerk of this House.

Ordered that the Chief Clerk deliver said bill to the Governor.

After a time the Chief Clerk aforesaid reported that he had discharged that duty.

Mr. Henry Ward moved that the vote by which the House reconsidered and laid on the table the vote by which a bill entitled:

S. B. 89. An Act relating to old age assistance was passed,

Be reconsidered.

Said motion was agreed to.

Thereafter such reconsideration, Mr. Henry Ward offered the following amendment to the title of said bill, viz.:

Amend the title to S. B. 89 in House by striking out the period at the end of the title and adding the following: ", Aid to Dependent Children and Needy Blind."

Said amendment was agreed to.

Resolved that the title thereof be as amended.

Mr. Henry Ward moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 297. An Act relating to the Federal food or cotton stamp plan.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky*:

"Any person, other than the person authorized by the regulations prescribed by the Secretary of Agriculture of the United States governing the food stamp plan or the cotton stamp plan, who shall have in his possession, or who shall

purchase, sell or exchange any food stamps or cotton stamps, books, book covers or any other instruments or documents relating to food stamps or cotton stamps, for money or for any other article or articles other than those foods or cotton goods authorized by the regulations prescribed by the Secretary of Agriculture of the United States governing the food stamp plan or the cotton stamp plan or for foods or cotton goods the value of which is less than the face amount of such food stamps or cotton stamps, or in any other manner in violation of the regulations prescribed by the Secretary of Agriculture of the United States governing the food stamp plan or the cotton stamp plan shall be fined from 100.00 to 250.00 for each offense.

Mr. Bolling moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Mr. Bolling moved that the vote by which the Previous Question was ordered, be reconsidered.

Said motion was agreed to.

Thereafter such reconsideration, Mr. Bolling offered the the following amendment to said bill, viz.:

Amend H. B. 297 on page 2, line 15 by striking out the figures "250.00 and inserting "$250.00"

Said amendment was agreed to.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were--

| | | |
|---|---|---|
| C. W. Anderson, Jr. | W. H. Hunt | B. W. Porter |
| Henry Arrowood | Joe B. Jarboe, Jr. | Kleber F. Price |
| Robert E. Barry | Crow Jarvis | James E. Quill |
| W. T. Beard | William L. Jones | L. Allen Rhoads |
| Robert E. Beatty | John S. Juett | Dr. J. J. Rice |
| Rell Bevins | W. A. Lamkin | Wade H. Riley |
| Douglas T. Bolling | H. W. Linville | Byron H. Royster |
| H. M. Brock, Jr. | A. L. Love | Dr. K. N. Salyer |
| Gus A. Brooks | Harry K. Lowman | Carl Scheben |
| Sherman E. Carter | Hugh D. Lyon | Leon J. Shaikun |
| T. Fowler Combs | Cary McDevitt | Faust Y. Simpson |
| Oris Cooper | Norris McPherson | Clyde Smith |
| M. A. Cornett | Dr. Wm. C. Mann | Otto Smither |
| John Henry Cox | Ed. Marcum | Charles L. Spilman |
| Rev. W. W. Crouch | C. C. May | James D. Stacey |
| Guthrie F. Crowe | J. Milton Mefford | J. Claude Stacy |
| Harry W. Ennis | D. J. Moore | R. C. Stephenson |
| John D. Fields | J. Lee Moore | C. W. Taylor |
| T. P. Fitzpatrick | L. D. Moore | Egbert Taylor |
| W. W. Freeman | C. E. Montgomery | Roy L. Taylor |
| P. Bert Hall | F. E. Morancy | Erna E. Tyra |
| A. G. Hamilton, Jr. | E. R. Morlidge | S. J. Wagner |
| Fuller Harding | C. Sid Nabb | C. R. Walden |
| Joe Higgins | Coy Nevitt | Harry Walters |
| E. R. Hilton | Robert Nicholas | H. A. Ward |
| Clyde S. Howard | H. C. Patterson | Henry Ward |
| Chas. O. Humston | Paul Pelfrey | H. L. Waterfield |

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Resolved that the title thereof be as aforesaid.

Mr. Bolling moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Clerk's desk a bill which was reported from the Senate on today, entitled:

H. B. 99. An Act pertaining to trial commissioners to be appointed by county judges.

With an amendment thereto as proposed and adopted by the Senate.

(For bill see House Journal of January 30.)

Said amendment as proposed and adopted by the Senate is as follows, viz.:

Amend H. B. 99 by striking out all the lines 11 to 14, inclusive, on page 1 of the printed bill and inserting in lieu thereof the following:

"The commissioner must possess the qualifications of a judge of the county court. He shall receive a salary to be fixed by the fiscal court of the county, which salary shall not exceed fifty dollars per annum, except in counties containing a population of 200,000 or more, in which, by reason of the increased duties of the county judge resulting from the amount of population, the fiscal court may fix the salary of the commissioner at not more than thirty-six hundred dollars per annum. The salary of the commissioner shall be paid in the same way as the county judge is paid."

Said amendment was concurred in.

Said bill was then passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Robert E. Beatty | H. M. Brock, Jr. |
| Robert E. Barry | Rell Bevins | Gus A. Brooks |
| W. T. Beard | Douglas T. Bolling | Sherman E. Carter |

| | | |
|---|---|---|
| T. Fowler Combs | Hugh D. Lyon | Joe E. Robinson |
| M. A. Cornett | Norris McPherson | Dr. K. N. Salyer |
| John Henry Cox | Dr. Wm. C. Mann | Carl Scheben |
| Rev. W. W. Crouch | Ed. Marcum | Leon J. Shaikun |
| Guthrie F. Crowe | C. C. May | Faust Y. Simpson |
| Pink G. Curd | J. Milton Mefford | Clyde Smith |
| Forest C. Easley | D. J. Moore | Otto Smither |
| Harry W. Ennis | L. D. Moore | Charles L. Spilman |
| John D. Fields | C. E. Montgomery | James D. Stacey |
| T. P. Fitzpatrick | F. E. Morancy | J. Claude Stacy |
| W. W. Freeman | E. R. Morlidge | R. C. Stephenson |
| Joseph J. Grace | C. Sid Nabb | C. W. Taylor |
| A. G. Hamilton, Jr. | Coy Nevitt | Egbert Taylor |
| E. R. Hilton | Robert Nicholas | Roy L. Taylor |
| Clyde S. Howard | H. C. Patterson | Rev. H. Tinsley |
| Chas. O. Humston | Paul Pelfrey | J. Wood Vance |
| W. H. Hunt | B. W. Porter | C. R. Walden |
| Joe B. Jarboe, Jr. | Kleber F. Price | Harry Walters |
| William L. Jones | L. Allen Rhoads | H. A. Ward |
| W. A. Lamkin | Dr. J. J. Rice | Henry Ward |
| A. L. Love | Wade H. Riley | H. L. Waterfield |

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Mr. Henry Ward moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

At the instance of the Committee on Rules, the House took up for consideration from the Clerk's desk a bill which was reported to this House from the Senate on today, entitled:

H. B. 84. An Act relating to drainage districts.

With an amendment thereto by way of Substitute therefore as proposed and adopted by the Senate.

(For bill see House Journal of February 4.)

Said Substitute as proposed and adopted by the Senate, is as follows, viz.:

With the following amendment thereto by way of substitute therefor as proposed and adopted by the Senate, viz.:

Amend H. B. 84 by striking out all of the bill after the enacting clause and inserting in lieu thereof the following:

Section 1. If at any time any person or persons owning lands within any drainage district desires to withdraw his lands in whole or in part from the drainage district, such person or persons upon the approval of a majority of the qualified members of the drainage board may petition the County Court for a withdrawal of his or their lands from the district. The judge shall docket the petition upon the docket of his court which convenes not less than fifteen days after the filing thereof with him, and issue and cause to be served upon the drainage board notice that, at the next term of his court which convenes not less than ten days after the service, he will consider the petition. Upon proper showing that the lands should be withdrawn from the drainage district, and if no valid reason is shown against the withdrawal of the lands from the drainage district, the judge shall enter an order withdrawing the lands. After the order of withdrawal is entered, the lands shall cease to be within the drainage district, but an appeal may be taken from the order of the circuit court, and from the circuit court to the Court of Appeals. All costs in any action filed to be paid by the petitioner or petitioners regardless of the result of the action.

Section 2. The withdrawal of lands from a drainage district as provided in Section one shall not relieve lands already within a drainage district from the payment of its proportionate part of any bonds or other outstanding indebtedness which were issued or incurred in the district,

but shall only relieve the lands from the payment of maintenance assessments on the ditches.

In which they respectfully request the concurrence of this honorable body.

ATTEST:.....
Assistant Clerk of Senate

Said Substitute was then concurred in.

Said bill was then passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| Henry Arrowood | Joe B. Jarboe, Jr. | James E. Quill |
| Robert E. Barry | Crow Jarvis | L. Allen Rhoads |
| W. T. Beard | William L. Jones | Byron H. Royster |
| Robert E. Beatty | John S. Juett | Dr. K. N. Salyer |
| Rell Bevins | W. A. Lamkin | Carl Scheben |
| H. M. Brock, Jr. | H. W. Linville | Leon J. Shaikun |
| Sherman E. Carter | A. L. Love | Faust Y. Simpson |
| T. Fowler Combs | Hugh D. Lyon | Clyde Smith |
| Oris Cooper | Norris McPherson | Otto Smither |
| M. A. Cornett | Dr. Wm. C. Mann | Charles L. Spilman |
| John Henry Cox | Ed. Marcum | James D. Stacey |
| Rev. W. W. Crouch | C. C. May | J. Claude Stacy |
| Guthrie F. Crowe | J. Milton Mefford | R. C. Stephenson |
| Forest C. Easley | L. D. Moore | C. W. Taylor |
| Harry W. Ennis | C. E. Montgomery | Egbert Taylor |
| T. P. Fitzpatrick | F. E. Morancy | Roy L. Taylor |
| W. W. Freeman | E. R. Morlidge | Rev. H. Tinsley |
| Joseph J. Grace | C. Sid Nabb | Erna E. Tyra |
| A. G. Hamilton, Jr. | Coy Nevitt | C. R. Walden |
| Fuller Harding | Robert Nicholas | Harry Walters |
| E. R. Hilton | H. C. Patterson | H. A. Ward |
| Clyde S. Howard | Paul Pelfrey | Henry Ward |
| Jerry F. Howell | B. W. Porter | |
| W. H. Hunt | Kleber F. Price | —70 |

Mr. Henry Ward moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Ordered that said bill be delivered to the Enrolling Clerk.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 188. An Act concerning personal representatives and other fiduciaries of estates.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky*:

Upon application of the next of kin, creditor, or other person entitled by law to qualify or nominate another for appointment as administrator, administrator with will annexed, executor, guardian, curator, committee, trustee, assignee or receiver of any estate, or upon a showing of the facts if such appointment is necessary and there is no person entitled to make such application, the Court having jurisdiction thereof may at any time confide the administration of such estate to the public administrator and guardian of the county.

Mr. Barry moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| Henry Arrowood | William L. Jones | Dr. J. J. Rice |
| Robert E. Barry | John S. Juett | Byron H. Royster |
| W. T. Beard | W. A. Lamkin | Dr. K. N. Salyer |
| Robert E. Beatty | A. L. Love | Carl Scheben |
| Rell Bevins | Harry K. Lowman | Leon J. Shaikun |
| H. M. Brock, Jr. | Hugh D. Lyon | Faust Y. Simpson |
| Gus A. Brooks | Norris McPherson | Clyde Smith |
| T. Fowler Combs | Dr. Wm. C. Mann | Otto Smither |
| M. A. Cornett | C. C. May | James D. Stacey |
| John Henry Cox | J. Milton Mefford | J. Claude Stacy |
| Rev. W. W. Crouch | L. D. Moore | R. C. Stephenson |
| Guthrie F. Crowe | C. E. Montgomery | C. W. Taylor |
| Forest C. Easley | F. E. Morancy | Egbert Taylor |
| Harry W. Ennis | E. R. Morlidge | Roy L. Taylor |
| W. W. Freeman | C. Sid Nabb | Rev. H. Tinsley |
| Joseph J. Grace | Coy Nevitt | Erna E. Tyra |
| P. Bert Hall | Robert Nicholas | C. R. Walden |
| E. R. Hilton | H. C. Patterson | Harry Walters |
| Chas. O. Humston | Paul Pelfrey | H. A. Ward |
| W. H. Hunt | B. W. Porter | Henry Ward |
| Joe B. Jarboe, Jr. | Kleber F. Price | H. L. Waterfield |
| Crow Jarvis | James E. Quill | —65 |

Resolved that the title thereof be as aforesaid.

Mr. Barry moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

S. B. 90. An Act relating to the establishment of a road beginning at a point approximately three (3) miles west of

Leitchfield on Highway No. 54 in Grayson County, Kentucky, and running in a northerly direction to the Porter Lashley Homestead (a distance of approximatel six tenths (6/10) miles) and that said road shall be designated as the "Quadruplet Highway."

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That there is hereby established as a part of the primary system of the State Highways of the Commonwealth of Kentucky a road beginning at a point approximately three (3) miles west of Leitchfield on Highway No. 54 in Grayson County, Kentucky, and running in a northerly direction to the Porter Lashley Homestead (a distance of approximately six tenths (6/10) miles) and that said road shall be designated as the "Quadruplet Highway."

Section 2. That said road when placed in the primary system shall be entitled to all the benefits and rights provided for roads in the State Primary system as now or hereafter provided by law.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Douglas T. Bolling | John Henry Cox |
| Henry Arrowood | H. M. Brock, Jr. | Rev. W. W. Crouch |
| Robert E. Barry | Sherman E. Carter | Guthrie F. Crowe |
| W. T. Beard | T. Fowler Combs | Forest C. Easley |
| Robert E. Beatty | Oris Cooper | Harry W. Ennis |
| Rell Bevins | M. A. Cornett | John D. Fields |

| | | |
|---|---|---|
| W. W. Freeman | C. C. May | Carl Scheben |
| Joseph J. Grace | J. Milton Mefford | Leon J. Shaikun |
| Bert Hall | J. Lee Moore | Faust Y. Simpson |
| A. G. Hamilton, Jr. | L. D. Moore | Clyde Smith |
| E. R. Hilton | C. E. Montgomery | Otto Smither |
| Clyde S. Howard | F. E. Morancy | Charles L. Spilman |
| Jerry F. Howell | C. Sid Nabb | James D. Stacey |
| Chas. O. Humston | Coy Nevitt | J. Claude Stacy |
| W. H. Hunt | Robert Nicholas | R. C. Stephenson |
| Joe B. Jarboe, Jr. | H. C. Patterson | C. W. Taylor |
| Crow Jarvis | Paul Pelfrey | Egbert Taylor |
| John S. Juett | B. W. Porter | Roy L. Taylor |
| W. A. Lamkin | Kleber F. Price | Rev. H. Tinsley |
| A. L. Love | L. Allen Rhoads | C. R. Walden |
| Harry K. Lowman | Dr. J. J. Rice | Harry Walters |
| Hugh D. Lyon | Wade H. Riley | H. A. Ward |
| Norris McPherson | Byron H. Royster | Henry Ward |
| Dr. Wm. C. Mann | Dr. K. N. Salyer | H. L. Waterfield |

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Those who voted in the negative were—

Fuller Harding William L. Jones —2

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the following bills and resolutions were introduced, viz.:

By Mr. Montgomery.

H. B. 351. An Act relating to actions.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. KRS 411.150 is repealed.

§ 2. Subsection (2) of KRS 413.170 is repealed.

By Mr. Freeman.

H. B. 352. An Act relating to corporations.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Subsection (1) of KRS 271.030 is amended to read as follows:

The articles of domestic corporations and amendments thereto shall be signed and acknowledged by the parties before any officer authorized to take acknowledgments of deeds and filed with and recorded by the Secretary of State. A copy of the articles or amendment certified to by the Secretary of State shall be recorded in the county clerk's office of the county in which the principal office or place of business is to be located. When the county clerk has recorded the copy certified to by the Secretary of State, he shall also certify on that copy that it has been recorded in his office and shall return the copy to the person causing it to be recorded. The corporation shall pay to the Secretary of State a fee of fifty cents for certifying the articles of incorporation or amendment, and twenty-five cents for each one hundred words recorded; and to the county clerk a fee of one dollar for certifying the articles or amendment, and ten cents for each one hundred words recorded.

§ 2. KRS 271.130 is amended to read as follows:

Any corporation may increase or reduce its capital stock at any time by a vote of or by the written consent of stockholders representing two-thirds of its outstanding capital stock, and after notice of the proposed increase or decrease has been mailed to the address of each stockholder at least twenty days before the meeting is held for that purpose. A

statement of the increase or reduction shall be signed and acknowledged by the preseident and a majority of the directors and filed and recorded the same as articles of incorporation. The increased stock may be common or preferred, or part of each as prescribed by the vote or written consent. No increase of the capital stock of a banking or trust company shall be valid until it has been bona fide subscribed, and one-half of it actually paid in. The remainder shall be paid within one year.

By Mr. Juett.

H. B. 353. An Act relating to crimes and punishment.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. KRS 431.090 is amended to read as follows:

Prosecutions by the Commonwealth for felony, unless otherwise specifically provided, shall not be barred by the lapse of time or any law of limitations. Prosecutions by the Commonwealth for a misdemeanor or to recover a penalty for a violation of any penal statute or law, and actions at the instance of any person to recover any such penalty, shall be commenced within one year after the misdemeanor was committed or the right to the penalty accrued, unless a different time is allowed by the law prescribing the misdemeanor or imposing the penalty.

§ 2. KRS 431.130 is amended to read as follows:

The jury by whom an offender is tried shall fix, by its verdict, the punishment to be inflicted within the periods and amount prescribed by law. Persons sentenced to punishment by confinement in the penitentiary shall be kept at hard labor. If the punishment is a fine or imprisonment in the jail of the county, or both, the imprisonment shall be by close confinement in the jail of the county where the trial was held,

unless otherwise provided. The prisoner shall also be confined in the jail until the costs are paid, unless otherwise provided. In any jurisdiction where there is a county workhouse, the court may in its discretion confine the prisoner in the county workhouse instead of the county jail.

§ 3. KRS 431.140 is amended to read as follows:

When the punishment for a crime is a fine or imprisonment in the county jail, or both, and the defendant is a male, the jury may, in its discretion, provide in its verdict that the defendant shall work at hard labor until the fine and costs are satisfied, or during the time of his sentence of imprisonment, or both, and the presiding judge at such a trial shall inform the jury by an instruction that it may, in its discretion, provide in its verdict that the defendant shall work at hard labor until the fine and costs or imprisonment is satisfied, or until both are satisfied.

By Mr. Nicholas.

H. B. 354. An Act relating to attorneys.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Subsection (3) of KRS 30.030 is repealed.

By Mr. Clayton.

H. B. 355. An Act relating to the production, marketing and storage of agricultural products.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Subsection (2) of KRS 248.010 and KRS 248.020 to 248.240 and subsections (1) to (5) of KRS 248.990 are repealed.

§ 2. KRS 251.010 to 251.990 are repealed.

By Mr. Marcum.

H. B. 356. An Act relating to the State Board of Health and authorizing it to make rules and regulations for the enforcement of public health laws.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

The State Board of Health may make rules and regulations, not in conflict with powers delegated to local health boards, laws of this state, and such rules and regulations as are necessary to control the actions of local boards when the members of local boards fail to execute their duties under the health laws of this state.

By Mr. Henry Ward.

H. B. 357. An Act to amend Section 3990-15 of Carroll's Kentucky Statutes, Baldwin's 1936 Edition.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Section 3990-15 of Carroll's Kentucky Statutes, Baldwin's 1936 Edition, be amended so that when so amended said section shall read as follows:

"During the months of January and July of each year the Division of Purchases shall advertise in one issue each of two newspapers of general circulation, published in this State, a list of the materials, supplies and equipment usually purchased by the Division during the year, and shall request the filing of names and addresses of persons, firms or corporations, who are in position to and desire to bid on and furnish any of such materials, supplies or equipment, and the character and kind thereof, and any and all such names that are furnished or filed with the said state purchasing division,

shall be recorded in some record book kept in the office, giving the name and address and such materials, supplies or equipment as each may be able and desires to bid on and furnish, and the said Division shall give reasonable written notice by mail of all proposed purchases, excepting purchases of less amount than three hundred ($300.00) dollars and the character thereof, to all persons, firms or corporations, according to articles handled by each as appears from said recorded list. Any persons, firms or corporations who are in a position to and desire to bid on and furnish any of the materials, supplies or equipment usually purchased by the Division of Purchases during the year may at any time file with such Division of Purchases its or their name or names, together with the character and kind of such materials, supplies and equipment which it or they may desire to bid on and furnish, and such names shall be recorded as hereinbefore provided, and such persons, firms and corporations shall mail to those so recorded reasonable written notice of all proposed purchases as hereinbefore provided for persons, firms or corporations who register in response to the newespaper advertisement hereinbefore provided for. Said notice by mail shall state also the time and place of receiving and opening bids, and any other information said Division may deem to be to the best interest of the State, and all said bids shall be made in writing, typewritten or in ink, sealed, and opened and read publicly by said Division as they are opened, and after due consideration contract shall be awarded to the lowest and best bidder, unless, in the discretion of said Division no satisfactory bid has been received, in which event any or all bids may be rejected, and new bids advertised for as herein provided, and pending delay said Division may make such purchases as will relieve pressing emergencies.

"In case any or all bids are rejected as unsatisfactory, or no bids are received, the said Division may negotiate purchase, at a price or prices lower than the lowest and best bid

or bids rejected, of any or all of the materials, supplies or equipment proposed to be purchased.

"If any person, firm or corporation whose name is registered as herein provided for fail for the period of one year from the date of their registration to make any bid after having been mailed an invitation to bid as herein provided, the Division of Purchases shall mail to any such person, firm or corporation a notice to show cause ten (10) days from the date of the mailing of such notice why their names should not be removed from the register of those to whom invitations must be sent. If, in the judgment of the Division of Purchases any person, firm or corporation registered as herein provided shall, after having received awards of contract or purchase orders, persist in furnishing under such awards of contract or purchase orders materials, supplies or equipment in quantity or quality less than that contracted for by such award of contract or purchase order, the said Division shall mail to them notice to show cause ten (10) days from the date of the mailing of such notice why their names should not be removed from the register of those to whom invitations must be sent. If the person, firm or corporation to whom such notice to show cause is sent shall request a hearing on the question of the removal of his or their name from the registrar, such hearing shall be accorded him or them by the Division, but the decision of the Division as to the removal of the name from the register shall be final, provided that after a period of one year from the date of such removal any person, firm or corporation may register as herein provided."

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 42.070, and shall thereafter be treated as an amendment to KRS 42.070 rather than an amendment to § 3990-15 of Carroll's Statutes.

By Mr. Henry Ward.

H. B. 358. An Act relating to property rights of husband and wife; amending sections 2131 and 2145 of Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 2131 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

When a husband abandons his wife and lives separate and apart from her, or abandons her without making sufficient provision for her maintenance, or is confined in the penitentiary for an unexpired term of more than one year, or has been adjudged a lunatic by a court of competent jurisdiction, the wife, by judgment of a court of equity, may be empowered to sell and convey by her own deed, or to mortgage by appropriate instrument, any of her real estate freed as to it and its proceeds from any claim of her husband.

§ 2. Section 2145 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

Whenever a married woman has become a confirmed lunatic, the circuit court of the county in which is situated land belonging to the husband of such married woman may, upon the petition of her husband, adjudge the sale and conveyance, or the mortgage, of the inchoate right of dower of the married woman. The wife and her committee, if she has one, shall be made defendants to the action; if she has no committee, the court shall appoint an attorney to defend for her, to whom the court shall make a reasonable allowance to be paid by the husband. A description of the land shall be given in the petition and the husband's evidence of title filed therewith. If the court is satisfied by the proof that the wife is a confirmed lunatic, it may adjudge the sale and conveyance, or mortgage, of her inchoate right of dower in said land, and

if she has a committee, the court may direct that he unite with the husband in the deed or mortgage; if she has no committee, the court shall appoint a commissioner who shall unite with husband in the deed or mortgage. Before any judgment pursuant to this section shall be rendered, the husband, with at least two good sureties, shall execute before the court a covenant to the Commonwealth for the benefit of the wife, to be approved by the court, that she will be paid the value of her right of dower in the land should such right thereafter become complete.

§ 3. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, sections one and two of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted, respectively, in place of KRS 404.050 and 392.140, and shall thereafter be treated as amending KRS 404.050 and 392.140 rather than an amendment to §§ 2131 and 2145 of Carroll's Statutes.

By Mr. Shaikun.

H. B. 359. An Act to provide to each Division of the Chancery Branch of the Circuit Courts in counties having a population of 200,000, or more, comprising a separate Judicial District and having six judges, or more, a special clerical assistant to the respective judges of said respective Chancery Divisions of said Court in the performance of their judicial work; fixing the compensation of such clerical assistant and directing the same to be paid out of the county treasury of such county and directing the method and manner by which the same shall be certified by the said Court to the Fiscal Court of said county for payment; amending Section 1020b-2 of Carroll's Kentucky Statutes, 1936 edition, being chapter 40 of the Acts of the General Assembly of the Commonwealth of Kentucky 1934.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Section 1020b-2, Kentucky Statutes, Carroll's 1936 edition, be and the same is hereby amended so that said Section, when so amended, shall read as follows:

The Circuit Courts in counties having a population of 200,000 or more, comprising a separate Judicial District, and having six judges or more, may, by order in General Term, any four of the judges concurring, appoint a clerical assistant to each judge of the divisions of the chancery branch, whose duties shall be to perform such clerical services for the judges as are assigned or directed by the judges in the performance of their judicial duties or functions. The court shall, by order in general term, any four of the judges concurring, fix the compensation of each of the clerical assistants at not exceeding $1,800.00, per annum, to be paid monthly out of the county treasury.

When an attested copy of the order is presented to the fiscal court, the fiscal court shall immediately enter an order directing the treasurer to and the treasurer shall pay out of the funds of the county, in equal monthly installments, the compensation so fixed.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 24.270, and shall thereafter be treated as an amendment to KRS 24.270 rather than an amendment to § 1020b-2 of Carroll's Statutes.

By Mr. Royster.

H. B. 360. An Act to repeal sections 4281j-1 to 4281j-8, inclusive, of Carroll's Kentucky Statutes, 1936 edition, relating to utility taxes imposed on the sale of electricity, gas, water and telephone.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Sections 4281j-1 to 4281j-8, inclusive, of Carroll's Kentucky Statutes, 1936 edition, are repealed.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, this Act shall be treated as repealing KRS 136.230 to 136.260 and subsection (7) of KRS 136.990, regardless of the date of enactment or taking effect of the Kentucky Revised Statutes.

By Mr. Nicholas.

H. B. 361. An Act amending Sec. 2554b-169 of Baldwin's 1938 Supplement to Carroll's Kentucky Statutes.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 2554b-169 of Baldwin's 1938 Supplement to Carroll's Kentucky Statutes is amended to read as follows:

Labeling—Use of Word "Kentucky." No whiskey produced in Kentucky, except whiskey, the barrel containing which is branded "Corn Whiskey," under the Internal Revenue laws, shall be bottled in Kentucky or removed from this State unless such whiskey has been aged in charred, new oak barrels for a period of not less than one full year; provided, however, that whiskey aged less than one year may be removed from the State and bottled, or bottled in Kentucky, if the word "Kentucky" or any word or phrase implying Kentucky origin does not appear on the front label or elsewhere on the retail container or package except in the name and address of the distiller as required by Federal regulation. For violations of this section, the Department shall revoke the permit of the license from whose warehouse or

premises such whiskey shall have been removed or in which such whiskey shall have been bottled.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 244.370, and shall thereafter be treated as an amendment to KRS 244.370 rather than an amendment to § 2554b-169 of Carroll's Statutes.

By Mr. Tyra.

H. B. 362. An Act relating to the compensation of Constitutional State Officers, employees, and bonds.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That Section 4384-3, Kentucky Statutes, Carroll's 1936 Edition, is amended to read as follows:

The salary of the Superintendent of Public Instruction shall be five thousand dollars ($5,000.00) per year.

Section 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, Section one of this Act shall, upon taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 156.120, paragraph (2), and shall thereafter be treated as an amendment to KRS 156.120, paragraph (2), rather than an amendment to Section 4384-3, Carroll's Kentucky Statutes, 1936 Edition.

Section 3. That Section 960a-1 of Carroll's Kentucky Statutes, 1936 Edition, is amended to read as follows:

The Clerk of the Court of Appeals shall receive a salary of five thousand dollars ($5,000.00) per anum, paid in monthly installments out of the State Treasury, which shall be in full compensation for his services as clerk.

Section 4. That Section 32 of Carroll's Kentucky Statutes, 1936 Edition, is amended to read as follows:

(1) The Commissioner shall be the head of the Department of Agriculture, Labor and Statistics. He shall keep his office at the seat of government, and devote his entire time to the duties of his office.

(2) The Commissioner shall execute bond with good sureties, to be approved by the Governor.

(3) The Commissioner shall receive an annual salary of five thousand dollars ($5,000.00), which shall be in full compensation for his services.

(4) The Commissioner may employ necessary clerical help.

Section 5. That Section 138 of Carroll's Kentucky Statutes, 1936 Edition, as amended by Section 1, of Chapter 130, of the Acts of 1940, is amended to read as follows:

The Auditor shall execute bond to the Commonwealth, with sureties worth at the time, jointly and severally, twenty-five thousand dollars ($25,000.00), to be approved by the Governor; the bond shall be filed in the office of the Secretary of State. The Auditor shall receive an annual salary of five thousand ($5,000.00) dollars. He shall reside and keep his office at the seat of government.

Section 6. That Section 4683 of Carroll's Kentucky Statutes, 1936 Edition, as amended by Chapter 139 of the Acts of 1940, is amended to read as follows:

The Treasurer shall receive an annual salary of five thousand dollars ($5,000.00) payable in the same manner as the salary of the Governor.

Section 7. That Section 2, of Chapter 139 of the Acts of 1940 is repealed.

Section 8. That Section 4540 of Carroll's Kentucky Statutes, 1936 Edition, is amended to read as follows:

The Secretary of State shall receive an annual salary of five thousand dollars ($5,000.00), to be paid monthly out of

the State Treasury; and shall be provided with adequate funds, so that he may employ necessary clerical help. The Secretary and Assistant Secretary shall execut bond with good sureties, not to exceed ten thousand dollars ($10,000.00), to be approved by the Governor; said bond premiums to be paid for out of special funds from the State Treasury, as are other bonds. The Secretary may require any employee to execute bond.

Section 9. The officers named in sections 1, 3, 4, 5, 6 and 8 of this Act may each appoint an assistant, whose salary shall be fixed by the officer; but in no case shall the salary of the assistant be more than that of the officer less five hundred dollars.

Section 10. For his duties as presiding officer of the Legislative Council and for any other services he may perform as Lieutenant Governor, other than for acting as presiding officer of the Senate and as Acting Governor, the Lieutenant Governor shall receive an annual salary of four thousand dollars ($4,000.00), to be paid quarterly out of the State Treasury, the total compensation shall not exceed five thousand dollars ($5,000.00) annually.

Section 11. If the Kentucky Revised Statutes are enacted, then upon the taking effect of the Kentucky Revised Statutes, sections 3, 4, 5, 6, and 8 of this Act shall be substituted, respectively, for Kentucky Revised Statutes 21.170, 246.040, 156.120(2), 43.020, 41.040 and 14.110; and said sections shall thereafter be treated as amending the Kentucky Revised Statutes, rather than Carroll's Statutes.

Section 12. (1) That Chapter 14 of the Acts of the General Assembly of 1938 and Section 4618-75a of Carroll's Kentucky Statutes, 1939 Supplement, be and the same are hereby repealed, amended and reenacted so when amended and re-enacted said chapter and section of the Statutes shall read as follows:

The salary of the Attorney-General of the Commonwealth of Kentucky shall be five thousand dollars ($5,000.00) annual-

ly to be allowed and paid in the same manner as is now provided by law for the payment of the salaries of other state officers.

(2) Section 117 of Carroll's Kentucky Statutes is hereby repealed.

(3) If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, paragraph one of Section 12 of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 15.160, and thereafter be treated as an amendment to KRS 15.160 rather than an amendment to Section 4618-75a of Carroll's Statutes.

By Mr. Grace.

H. B. 363. An Act to repeal, amend and reenact Section 42 of the Constitution of the Commonwealth of Kentucky, and prescribing the mode of amendment of said Constitution.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Upon concurrence of three-fifths of all the members elected to each House of the General Assembly of the Commonwealth of Kentucky, the yeas and nays being taken thereon and entered in full on their respective journals, Section 42 of the Constitution of the Commonwealth of Kentucky be and the same is repealed, amended and reenacted so that when repealed, amended and reenacted it shall read as follows:

"Section 1. Compensation for members of the General Assembly shall be fixed by law; they shall also receive fifteen cents (15c) per mile for necessary travel for one round trip from the county seat in which they reside to the State Capitol. No change in compensation of the members shall take effect during the session at which it is made nor shall a session of the General Assembly continue beyond sixty (60) legislative days exclusive of Sundays and holidays.

"Section 2. The session of the General Assembly of the Commonwealth of Kentucky shall begin on the first Tuesday after the first Monday in January, 1944, and shall continue in session for a period of thirty (30) legislative days unless recessed before that date by a majority vote of both the House of Representatives and the Senate, and shall then stand in recess until the first Tuesday after the first Monday in April, 1944, when it shall convene for the balance of the sixty (60) legislative day session, and thereafter shall meet on the same dates every two (2) years.

"Section 3. The first thirty days of the session shall be known as the "Initial Session" at which the General Assembly shall organize, appoint committees, introduce bills, and hold preliminary hearing but at which no bill shall be put upon its final passage. The second part of the session shall be known as the "Final Session" at which hearings shall be held, if deemed necessary, and those bills introduced at the Initial Session shall be put upon their final passage but no bill shall be introduced at the final session.

"Section 4. The limit as to the length of session shall not apply to the Senate sitting as a Court of Impeachment. The legislative day shall be construed to mean a calendar day."

§ 2. The foregoing proposed amendment to the Constitution shall be submitted to the voters of this state for their ratification or rejection at the next general election for members of the House of Representatives of this Commonwealth in accordance with the provisions of Section 256 of the Constitution of Kentucky and Chapter 38 of the Acts of 1940, or KRS 118.430.

By Mr. Henry Ward.

H. Res. 74. A Joint Resolution designating June 4 as Jack Jouett Day.

Said resolution is as follows, viz.:

JOINT RESOLUTION

WHEREAS, one of the heroes of the Revolutionary War was Captain Jack Jouett, who saved Thomas Jefferson and the members of the General Assembly of Virginia from capture by the British by a cross-country dash on horseback to warn them of a secret plan to surround the members of the Generabl Assembly, and

WHEREAS, Captain Jouett later moved to Kentucky and became one of the outstanding leaders of this state, and it is right and proper that his memory should be honored, now therefore

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That the fourth day of June of each year be designated and observed as Jack Jouett Day in Kentucky, but shall not be regarded as a legal holiday.

By Mr. Henry Ward.

H. Res. 75. A Joint Resolution providing for the furnishing of copies of the Kentucky Revised Statutes, together with index and annotations, to the members of the 1942 General Assembly.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That the Statute Revision Commission is directed to furnish to each member of the 1942 General Assembly a copy of the Kentucky Revised Statutes to be published by the Commission during the year 1942 containing the legislation enacted by the 1942 General Assembly and a detailed index, together with the volume of notes and annotations to the Kentucky Revised Statutes, immediately upon the same being printed and published.

Ordered that said bills and resolutions be printed and referred to Committee on Rules.

Mr. Henry Ward of the Committee on Rules, reported bills of the following titles, viz.:

H. B. 304. An Act relating to cigarette taxes.

H. B. 341. An Act relating to the employment and compensation of officers and employees of certain counties.

H. B. 338. An Act relating to licensing and registration of motor vehicles.

H. B. 319. An Act providing that the Clerk of Courts in which an inquest proceeding is held for adjudication of an idiot, etc.

H. B. 258. An Act to repeal Kentucky Statutes, relating to mining, etc.

H. B. 277. An Act relating to fiscal courts and amending and consolidating 1833 and 1836 Carroll's Kentucky Statutes.

H. B. 324. An Act to amend Sec. 98a-2, 1938 Edition Carroll's Kentucky Statutes, relating to requirements for practicing law, etc.

H. B. 276. An Act relating to plumbers and plumbing.

H. B. 336. An Act relating to recording of deeds, mortgages and other instruments.

S. B. 78. An Act relating to county finance.

S. B. 79. An Act authorizing taxing agencies to comply with provisions of Chapter IX of federal bankruptcy act.

S. B. 80. An Act to amend Sec. 3720b-2 of Carroll's Kentucky Statutes.

S. B. 171. An Act relating to toll bridges.

H. B. 340. An Act relating to licenses for race tracks.

H. B. 208. An Act relating to taxation—revenue inheritance tax.

H. B. 357. An Act to amend Sec. 3990-15 of Carroll's Kentucky Statutes, 1936 Edition.

H. B. 358. An Act relating to property rights of husband and wife.

With the expression of opinion that said bills ought to pass.

Said bills were each and severally read at length the first time and ordered to be placed on the Calendar.

Mr. Shaikun moved that the House do now adjourn to meet again on tomorrow February 20 at eleven o'clock A. M.

Said motion was agreed to.

And then the House adjourned.

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FRIDAY, FEBRUARY 20, 1942

The House was called to order by The Honorable Stanley S. Dickson, Speaker.

The House was opened with prayer by the Reverend Fred S. Moffatt of the First Baptist Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

C. W. Anderson, Jr.
George P. Anderson
Robert E. Barry
W. T. Beard
Robert E. Beatty
Douglas T. Bolling
H. M. Brock, Jr.
Gus A. Brooks
Sherman E. Carter
T. Fowler Combs
Oris Cooper
M. A. Cornett
Rev. W. W. Crouch
Forest C. Easley
Harry W. Ennis
T. P. Fitzpatrick
W. W. Freeman
Joseph J. Grace
A. G. Hamilton, Jr.
E. R. Hilton
Clyde S. Howard
Chas. O. Humston
W. H. Hunt
Joe B. Jarboe, Jr.
Crow Jarvis
John S. Juett
W. A. Lamkin
A. L. Love
William Lovett
Harry K. Lowman
Hugh D. Lyon
H. McCartney
Norris McPherson
Dr. Wm. C. Mann
Ed. Marcum
J. Milton Mefford
D. J. Moore
J. Lee Moore
L. D. Moore
C. E. Montgomery
E. R. Morlidge
C. Sid Nabb
Coy Nevitt
Robert Nicholas
H. C. Patterson
B. W. Porter
Kleber F. Price
James E. Quill
L. Allen Rhoads
Dr. J. J. Rice
Wade H. Riley
Byron H. Royster
Dr. K. N. Salyer
Carl Scheben
Leon J. Shaikun
Faust Y. Simpson
Clyde Smith
Otto Smither
Charles L. Spilman
James D. Stacey
J. Claude Stacy
Thomas M. Swope
C. W. Taylor
Egbert Taylor
Roy L. Taylor
Rev. H. Tinsley
Erna E. Tyra
S. J. Wagner
C. R. Walden
Harry Walters
H. A. Ward
Henry Ward
H. L. Waterfield
E. Reed Wilson
Stanley S. Dickson, Speaker

Mr. Henry Ward moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Henry Ward moved that when the House adjourn today it adjourn to meet again on Saturday, February 21, at ten o'clock A. M.

Mr. J. Lee Moore moved that when the House adjourn today, it adjourn to meet again on Tuesday, February 24, at eleven o'clock A. M.

The motion as made by Mr. J. Lee Moore was agreed to.

Mr. Henry Ward moved that the Rules of this House be suspended and that the House proceed with the Orders of the Day.

Said motion was agreed to.

Thereupon the House took up for consideration from the Calendar, bills of the following titles, viz.:

H. B. 304. An Act relating to cigarette taxes.

H. B. 341. An Act relating to the employment and compensation of officers and employees of certain counties.

H. B. 338. An Act relating to licensing and registration of motor vehicles.

H. B. 319. An Act providing that the Clerk of Courts in which an inquest proceeding is held for adjudication of an idiot, etc.

H. B. 258. An Act to repeal Kentucky Statutes, relating to mining, etc.

H. B. 277. An Act relating to fiscal courts and amending and consolidating 1833 and 1836 Carroll's Kentucky Statutes.

H. B. 324. An Act to amend Sec. 98a-2, 1938 Edition Carroll's Kentucky Statutes, relating to requirements for practicing law, etc.

H. B. 276. An Act relating to plumbers and plumbing.

H. B. 336. An Act relating to recording of deeds, mortgages and other instruments.

S. B. 78. An Act relating to county finance.

S. B. 79. An Act authorizing taxing agencies to comply with provisions of Chapter IX of federal bankruptcy act.

S. B. 80. An Act to amend Sec. 3720b-2 of Carroll's Kentucky Statutes.

S. B. 171. An Act relating to toll bridges.

H. B. 340. An Act relating to licenses for race tracks.

H. B. 208. An Act relating to taxation—revenue inheritance tax.

H. B. 357. An Act to amend Sec. 3990-15 of Carroll's Kentucky Statutes, 1936 Edition.

H. B. 358. An Act relating to property rights of husband and wife.

Ordered that said bills be read the second time.

The Constitutional provision as to the second reading of said bills at length being dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day.

Mr. Fitzpatrick moved that the privilege of the floor be extended to Mrs. A. Brener and Miss Mary Arnold of Louisville.

Said motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 316. An Act relating to juries.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 2243 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

(1) At each term of circuit court, of circuit courts having terms, held within one year after the commencement of the term at which the commissioners were appointed, the judge shall, in open court, draw from the drum a sufficient number of names to procure the names of twenty-four persons qualified to act as grand jurors, record the names of the twenty-four qualified upon paper, certify and sign it. The judge shall then, after having locked and revolved or shaken the drum, reopen it and draw therefrom the names of not less than thirty nor more than thirty-six persons, in the discretion of the judge, to act as petit jurors, record their names on paper, certify and sign it. Sessions of a court having continuous session held at the county seat of a county in which there is a city of the second class at which part of its sessions are authorized to be held shall be deemed terms of court within the meaning of this section.

(2) In courts of continuous session, except the courts in counties containing a city of the first-class, the judge of the court, or if the court has branches the judge of the criminal branch, shall, in open court, on Monday next before the Monday upon which they shall be summoned to appear, draw from the drum a sufficient number of names to procure twenty-four persons qualified to act as grand jurors, record the name of the twenty-four qualified upon paper, certify and sign it. In such courts the judge of the court, or if the court has branches the judge of each division requiring the services of a petit jury, shall, in open court, every two weeks, on Monday next before the Monday upon which they shall be summoned to appear, draw from the drum the names of not less than thirty nor more than thirty-six persons to act as

petit jurors, record their names on paper, certify and sign it. In such courts the names of all persons drawn as grand and petit jurors shall be publicly announced when drawn, and entered of record in the order drawn.

(3) In courts of counties containing a city of the first-class, the judge of the criminal branch shall, on Monday next before the Monday on which they shall be summoned to appear, draw from the drum a sufficient number of names, in the discretion of the judge, to procure a sufficient number of persons qualified to act as grand jurors, and shall make a written record thereof, which he shall certify and sign. In such courts the judge of each division requiring the services of a petit jury shall, every two weeks, on Monday next before the Monday upon which they shall be summoned to appear, draw from the drum a sufficient number of names, not to exceed sixty, in the discretion of the judge, to procure twenty-four persons qualified to act as petit jurors. The clerk of the court or the official stenographer, as directed by the court, shall prepare a record thereof on paper, which shall be certified and signed by the judge.

(4) From the list of names of persons qualified to act as grand jurors, the next grand jury shall be drawn, and from the list of names of persons qualified to act as petit jurors, not less than twenty-four nor more than thirty jurors shall be selected, in the discretion of the judge, to constitute the regular panel of the next petit jury.

(5) The judge shall place the lists in separate envelopes, of good paper, seal and endorse them so as to show that the envelopes contain jury lists, and the month of the term, and in courts having continuous session, the weeks and year, the jurors are selected for and the date of selection and sign his name across the seal of it. Immediately after drawing the names from the drum, the judge shall lock the drum. The judge shall deliver the lists and the drum to the clerk, at the same time administering to the clerk and his deputies the oath prescribed in § 2241 of Carroll's Statutes, except that in

courts of counties containing a city of the first class the judge may, in his discretion, retain possesion of the drum, and in lieu of the oath prescribed in § 2241 shall administer to the clerk and his deputies the following oath: "You solemnly swear that you will not open the envelope containing the list of petit (or grand or petit jurors, as the case may be) jurors, until the time fixed by law; that you will not directly nor indirectly converse with anyone summoned as a grand juror or petit juror concerning any suit for trial in this court at its next term, unless by leave of court, so help you God." In counties containing a city of the first class neither the clerk nor the sheriff shall disclose to any person, other than those prescribed by law, any name or information concerning the name of any person who may be summoned as either a grand juror or a petit juror.

(6) The judge shall destroy the slips on which are written the names placed on the lists as soon as the names are recorded on the lists. If in drawing the grand jurors the name of a person not having the qualifications of a grand juror is drawn, it shall be forthwith returned to the drum, and if at any drawing the name of a person temporarily disqualified is drawn, it shall be replaced in the drum, but if the name of any person permanently disqualified for any jury service is drawn, the slip on which it is written shall be destroyed.

(7) In circuit courts having continuous sessions and more than one judge, if the judge of any division cannot attend upon the day provided for the drawing of names for juries, the judge of any divison of the court may attend and draw names for the juries. In circuit courts having continuous sessions and only one judge, if the judge cannot attend upon the day provided for the drawing of names for juries, he shall draw the names for the juries upon the first day thereafter he does attend. Any special judge presiding at a term of court at which the regular judge is absent, or over any division of a circuit court having continuous ses-

sions, may draw the names for the juries in the same manner as the regular judge.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, then, upon the taking effect of the Kentucky Revised Statutes, subsections (1), (2), (3) and (4) of section one of this Act, shall be substituted in place of KRS 29.130, subsections (5) and (6) of section one of this Act shall be substituted in place of KRS 29.140, and subsection 7 of section one of this Act shall be substituted in place of KRS 29.150; the number "subsection (1) of KRS 29.080" shall be substituted in place of "§ 2241 of Carroll's Statutes in subsection (5) of section one of this Act, and this Act shall thereafter be treated as amending the Kentucky Revised Statutes rather than Carroll's Statutes.

Mr. McPherson moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | T. Fowler Combs | Joseph J. Grace |
| Robert E. Barry | M. A. Cornett | Bert Hall |
| W. T. Beard | John Henry Cox | E. R. Hilton |
| Robert E. Beatty | Rev. W. W. Crouch | Clyde S. Howard |
| H. M. Brock, Jr. | Forest C. Easley | W. H. Hunt |
| Gus A. Brooks | Harry W. Ennis | Joe B. Jarboe, Jr. |
| Sherman E. Carter | W. W. Freeman | Crow Jarvis |

| | | |
|---|---|---|
| W. A. Lamkin | E. R. Morlidge | J. Claude Stacy |
| A. L. Love | C. Sid Nabb | C. W. Taylor |
| William Lovett | Coy Nevitt | Egbert Taylor |
| Harry K. Lowman | B. W. Porter | Roy L. Taylor |
| Hugh D. Lyon | Kleber F. Price | Rev. H. Tinsley |
| H. McCartney | James E. Quill | S. J. Wagner |
| Norris McPherson | L. Allen Rhoads | C. R. Walden |
| Dr. Wm. C. Mann | Dr. J. J. Rice | Harry Walters |
| Ed. Marcum | Dr. K. N. Salyer | H. A. Ward |
| C. C. May | Faust Y. Simpson | Henry Ward |
| J. Milton Mefford | Clyde Smith | H. L. Waterfield |
| D. J. Moore | Otto Smither | E. Reed Wilson |
| L. D. Moore | Charles L. Spilman | |
| C. E. Montgomery | James D. Stacey | —61 |

Those who voted in the negative were—

| | | |
|---|---|---|
| Leon J. Shaikun | R. C. Stephenson | —2 |

Resolved that the title thereof be as aforesaid.

Mr. McPherson moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 285. An Act relating to permits to erect or maintain poles, lines, wires, pipe lines or other equipment on the rights of way of highways or public roads of this Commonwealth and providing a fee for such permits.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

*Section One:* Any person, persons, firm, partnership, or corporation desiring to use the rights of way of any high-

way or public road in this Commonwealth for the purpose of erecting or maintaining poles, wires, pipe lines or other equipment on, over or under any right of way of any highway or public road of this Commonwealth, shall make application for a permit to the Department of Highways as is now provided by law and all such applications shall be accompanied by a fee of $5.00, which fee shall be covered into the State Treasury and credited to the State Road Fund.

*Section Two:* The Commissioner of Highways shall issue such permits when it is determined by him that the said lines, poles, wires or other equipment or appliance will not interfere with the proper maintenance and operation of said road or roads and the Commissioner of Highways is hereby authorized to adopt such rules and regulations as he may deem proper for the enforcement of this Act.

Mr. Henry Ward offered the following amendments to said bill, viz.:

1. Amend H. B. 285 on page 1, section 1, line 3 by adding after the word "Commonwealth" the following:

"which is being maintained by the State Department of Highways".

2. Amend H. B. 285 on page 1, section 1, line 5 by adding after the word "Commonwealth" the following:

"which is being maintained by the State Department of Highways".

Mr. Henry Ward moved that said bill be made a Special Order of the Day for today at three o'clock P.M.

Said motion was agreed to.

Mr. Henry Ward moved that the Rules of this House be suspended for the purpose of making a Committee report.

Said motion was agreed to.

Thereupon Mr. Henry Ward of the Committee on Rules, to which the same had been referred, reported bills of the following titles, viz.:

H. B. 351. An Act relating to accidents.

H. B. 352. An Act relating to corporations.

H. B. 353. An Act relating to crime and punishment.

H. B. 354. An Act relating to attorneys.

H. B. 355. An Act relating to production, marketing and storage of agricultural products.

H. B. 356. An Act relating to public health.

H. B. 364. An Act relating to school districts.

H. B. 361. An Act amending Sec. 2554b-169 of Baldwin's 1938 Supplement, relating to labeling of whiskey, etc.

H. B. 224. An Act to amend and reenact Sec. 576a-1 Carroll's Kentucky Statutes 1936.

H. B. 173. An Act relating to high school service.

H. B. 261. An Act relating to drainage districts.

H. B. 250. An Act to permit correction of ballots that are improperly signed.

H. B. 326. An Act to exempt any corporation having no capital stock for religious, charitable purpose.

S. B. 132. An Act to amend Sec. 2739-31 Carroll's Kentucky Statutes, relating to mines.

S. B. 111. An Act to amend Section 1, Chapter 92 of 1940 Acts, relating to salaries of public officers.

With the expression of opinion that said bills ought to pass.

Said bills were each and severally read at length the first time and ordered to be placed on the Calendar.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 247. An Act relating to Mutual Insurance Companies.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 743a-8 of Carroll's Kentucky Statutes, 1936, Edition, is amended to read as follows:

743a-8. Kinds of insurance not to be written,—Any mutual company authorized to transact the kind of insurance described under paragraph (a) of section 743a-7 shall not be authorized to transact any of the kinds of insurance described under paragraphs (b) to (k) inclusive, of section 743a-7 except that it may, without additional surplus, transact the kind of insurance described under paragraph (j) of section 743a-7, excluding the liability of the insured for the death, injury or disability of another person; nor shall any mutual company authorized to transact any of the kinds of insurance described under paragraphs (b) to (k) inclusive, of section 743a-7 be authorized to transact the kind of insurance described under paragraph (a) of section 743a-7, except that a mutual company authorized to transact the kind of insurance described under paragraph (j) of section 743a-7 may, without additional surplus, also insure against loss or damage by fire of or to any automobile.

Section 2. Section 743a-9 of Carroll's Kentucky Statutes, 1936 Edition is amended to read as follows:

743a-9. Not to transact any business until licensed,—No such company shall issue policies or transact any business of

insurance until the Director has, by formal license, authorized it to do so.

(1) A license shall not be issued to a company organized to transact the type of insurance described in paragraph (a) of section 743a-7 until the company has complied with the following conditions:

(a) Applications for at least two hundred risks, for at least twenty members, shall be subscribed, aggregating not less than five hundred thousand dollars insurance.

(b) The maximum of any single risk less reinsurance shall not exceed ten per cent of the surplus possessed by the company. Any reinsurance shall take effect simultaneously with the policy, being deducted in determining the maximum single risk.

(c) A premium upon each application shall be collected in cash and the company shall hold a surplus of not less than fifty thousand dollars.

(2) A license shall not be issued to a company organized to transact the kinds of insurance described under paragraphs (b) to (k) inclusive, of section 743a-7 until the company has complied with the following conditions;

(a) To transact the kind of insurance described in paragraph (b) of section 743a-7 it shall have bona fide applications for insurance from at least five hundred members, upon which a premium has been paid, and a surplus of at least twenty-five thousand dollars.

(b) To transact any one of the kinds of insurance described in paragraph (c), other than Workmen's Compensation insurance, or (f) or (g) or (h) or (k) of section 743a-7 it shall have bona fide applications for insurance from at least twenty members, upon which a premium has been paid, and a surplus of at least fifty thousand dollars.

(c) To transact the kind of insurance described in paragraph (d) of section 743a-7 it shall have a surplus of at least two hundred thousand dollars.

(d) To transact the kind of insurance described in paragraph (e) of section 743a-7 it shall have a surplus of at least two hundred thousand dollars.

(e) To transact the kind of insurance described in paragraph (i) of section 743a-7 it shall have a surplus of at least twenty-five thousand dollars.

(f) To transact the kind of insurance described in paragraph (j) of section 743a-7 it shall have a surplus of at least fifty thousand dollars.

(g) To transact more than one of the kinds of insurance described in paragraphs (b), (c), (f), (g), (h), (i), (j) or (k) of section 743a-7 it shall have, except as provided in paragraph (i) of this subsection, a surplus equal to the combined requirements of all the paragraphs describing the kinds of insurance proposed to be transacted; but not more than two hundred thousand dollars.

(h) To transact the business of Workmen's Compensation insurance it shall have bona fide applications for insurance from at least twenty separate employers who employ altogether at least fifteen hundred employees, and a surplus of at least fifty thousand dollars; and the provisions of this section with regard to maximum single risk shall not apply.

(i) To transact both the kinds of insurance described in paragraphs (i) and (j) of section 743a-7 where the business or membership of the company with respect to the transaction of business under paragraph (i) is limited to those engaged principally in the business of farming, dairying or beef cattle raising and the maximum liability under said paragraph (i) for any one animal is not more than two hundred and fifty dollars, or for more than one animal five thousand dollars, it shall have a surplus of fifty thousand dollars.

(3) The maximum single risk assumed by any company transacting one or more of the kinds of insurance described in paragraphs (b) to (k) inclusive, of section 743a-7 shall not exceed ten per cent of the surplus possessed by the company.

Any reinsurance taking effect simultaneously with the policy shall be deducted in determining the maximum single risk.

(4) No company that has been issued a license shall transact any business of insurance unless it continues to comply with the applicable conditions of this section.

Section 3. Section 743a-21 of Carroll's Kentucky Statutes, 1936 Edition, is amended to read as follows:

743a-21. Foreign companies, admission of. (1) When by the laws of any other state, district or territory any company is authorized to engage in the business of insurance, other than life insurance, on the mutual plan in accordance with the laws of the state, district or territory in which the company is organized, and is solvent and possessed of a surplus over and above all of its liabilities of not less than fifty thousand dollars if authorized to engage only in the business of fire insurance, or not less than three hundred thousand dollars if authorized to engage in the business of insurance other than life or fire, it shall be admitted to do the kinds of insurance permitted to like mutual insurance companies organized under the laws of this Commonwealth when it shall have complied with the following requirements, to wit:

(a) Filed with the Director a duly certified copy of the charter and articles of association.

(b) Paid the Director a fee of twenty-five dollars.

(c) Filed with the Director a copy of its bylaws certified to by its secretary.

(d) Appointed the Director as a person upon whom process may be served, which when so served shall be of the same force and effect as if served upon the company. This authority shall continue in force so long as liability remains outstanding in this Commonwealth.

(e) Filed a certificate of the person charged with the administration of the insurance laws in the state in which the company is organized certifying that the company is organized and authorized to do such business in that state.

(f) Filed a financial statement under oath, in such form as may be required and have complied with other provisions of law applicable to the filing of papers by and the audit and inspection of stock companies transacting the same kind of insurance.

(2) Upon compliance by any foreign company with the provisions of this section, its application to do business in this Commonwealth shall be approved by the Director and such officer shall issue to such company a permit, in writing, authorizing it to do business within the Commonwealth.

(3) When legal process against a foreign company is served upon the Director, he shall immediately notify the company of such service by registered letter, prepaid and directed to its home office, or to such officer or authorized representative as the company may direct, and enclose copy of the process served on him. The Director shall keep a record of all processes served upon him, which record shall show the day and hour when such service was made.

(4) Nothing in this section shall apply to or be so construed as to prevent the admission or licensing or readmission or relicensing of any foreign insurance company now authorized to transact business in this state, provided, however, that such companies shall at all times maintain a surplus of at least $50,000.00.

Section 4. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, then, upon the taking effect of the Kentucky Revised Statutes, Section 1 of this Act shall stand repealed, and subsections (1) and (3) of KRS 301.070 shall be treated as amended to read as follows:

"(1) Any company may be authorized under this chapter to make contracts of insurance, or reinsure or accept reinsurance on any portion thereof, for insurance of the type described in subsection (1) of KRS 298.030, and if so authorized it may not transact any of the types of insurance described in subsection (2) of this section, except that it may,

without additional surplus, transact the type of insurance described in paragraph (i) of subsection (2) of this section, excluding the liability of the insured for the death, injury or disability of another person."

"(2) A company authorized to transact the type of insurance described in paragraph (i) of subsection (2) of this section may, without additional surplus, also insure against loss or damage by fire of or to any automobile. The right to transact more than one of the kinds of insurance described in subsection (2) of this section shall be subject to the provisions of KRS 301.050."

Section 2 of this Act shall be substituted in place of KRS 301.050; subsections (1), (2) and (4) of section 3 of this Act shall be substituted in place of KRS 301.030; subsection (3) of section 3 of this Act shall be substituted in place of KRS 301.040; the words and figures "subsection (1) of KRS 301.070" shall be substituted for "paragraph (a) of section 743a-7" in section 2 of this Act; wherever reference is made in section 2 of this Act to paragraphs (b), (c), (d), (e), (f), (g), (h), (i), (j) and (k) of section 743a-7, it shall be treated as referring, respectively, to paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i) and (j) of subsection (2) of KRS 301.070; and this Act shall thereafter be treated as amending the Kentucky Revised Statutes rather than Carroll's Statutes.

Mr. Barry offered the following amendment to said bill, viz.:

Amend H. B. 247 on page 5 by adding after line 48 of section 3 the following:

Section 4. Section 743a-7 of Carroll's Kentucky Statutes, 1936 Edition, is amended to read as follows:

Section 743a-7. Business which may be transacted.—Any corporation organized under the provisions of this section is empowered and authorized to make contracts of insurance or to reinsure or accept reinsurance on any portion thereof for the kinds of insurance as follows:

(a) Fire insurance.—Against loss or damage to property and loss of use and occupancy by fire, lightning, storm, hail, tempest, earthquake, frost or snow, explosion with fire ensuing and explosion with no fire ensuing, except explosion by steam boilers or fly wheels; against loss or damage by water caused by the breakage or leakage of sprinklers, pumps or other apparatus, water pipes, plumbing or their fixtures, erected for extinguishing fires, and against accidental injury to such sprinklers, pumps, other apparatus, water pipes, plumbing or fixtures; against the risk of inland transportation and navigation upon vessels, freights, goods, money, effects, and money loaned on bottomry or respondentia; against the perils of the sea and other perils usually insured against by marine insurance; upon automobiles, whether stationary or operated under their own power, against loss or damage by any of the causes or risks mentioned herein, including also transportation, collision, liability for damage to property resulting from owning, maintaining or using automobiles and including burglary to the person; and by and with the approval of the Director of Insurance against other loss or damage to property or interest therein the insurance against which is not exclusively delegated to another class or kind of company.

(b) Disability insurance.—Against bodily injury or death by accident, and disability by sickness.

(c) Liability insurance.—Against loss, expense or liability by reason of bodily injury or death by accident, disability, sickness or disease suffered by others for which the insured may be liable or have assumed liability, including workmen's compensation.

(d) Fidelity insurance.—To guaranty the fidelity of persons in positions of trust, public or private, and to act as surety on official bonds, and to guarantee the performance of contracts and obligations, other than insurance policies, mortgages and trust deeds.

(e) Title insurance.—Against loss or damage on account of incumbrances upon or defects in title to real property and against loss by reason of the nonpayment of principal and interest of bonds and mortgages, and to examine titles of real and personal property and to furnish information relative thereto.

(f) Plate glass insurance.—Upon glass against breakage.

(g) Steam boiler insurance.—Against loss or liability to persons or property resulting from explosions or accidents to boilers, containers, pipes, engines, fly wheels, elevators and machinery in connection therewith, and against loss of use and occupancy caused thereby, and to make inspections and issue certificates of inspection thereon.

(h) Burglary insurance.—Against loss or damage by burglary, theft or housebreaking.

(i) Livestock insurance.—Against loss or damage by theft, injury, sickness or death of animals, and to furnish veterinary services.

(j) Automobile insurance.—Against loss, expense and liability resulting from the ownership, maintenance or use of any automobile or other vehicle.

(k) Use and occupancy insurance.—Against loss from interruption of trade or business which may be the result of any accident or casualty.

And on page 6, line 1, renumber Section 4 to be section 5.

And on page 6, line 3, strike the word "section" and insert in lieu thereof the word "sections" and after the figure "1" insert "and 4"

and on page 6, strike lines 6 to 9 inclusive and insert in lieu thereof the following:

"(1) Any company may be authorized under this chapter to make contracts of insurance or to reinsure or accept reinsurance on any portion thereof against loss or damage

to property and loss of use and occupancy by fire, lightning, storm, hail, tempest, earthquake, frost or snow, explosion with fire ensuing and explosion with no fire ensuing, except explosion by steam boilers or fly wheels; against loss or damage by water caused by the breakage or leakage of sprinklers, pumps or other apparatus, water pipes, plumbing or their fixtures, erected for extinguishing fires, and against accidental injury to such sprinklers, pumps, other apparatus, water pipes, plumbing or fixtures; against the risk of inland transportation and navigation upon vessels, freights, goods, money, effects, and money loaned on bottomry or respondentia; against the perils of the sea and other perils usually insured against by marine insurance; upon automobiles, whether stationary or operated under their own power, against loss or damage by any of the causes of risks mentioned herein, including also transportation, collision, liability for damage to property resulting from owning, maintaining or using automobiles and including burglary and theft, but not including loss or damage by reason of bodily injury to the person; and by and with the approval of the Director of Insurance against other loss or damage to property or interest therein the insurance against which is not exclusively delegated to another class or kind of company. If so authorized it may not transact any of the

And on page 6, line 15, strike the figure (2) and insert the figure (3).

Said amendment was agreed to.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | John S. Juett | Faust Y. Simpson |
| George P. Anderson | W. A. Lamkin | Clyde Smith |
| Robert E. Barry | A. L. Love | Otto Smither |
| W. T. Beard | William Lovett | Charles L. Spilman |
| Douglas T. Bolling | Harry K. Lowman | James D. Stacey |
| H. M. Brock, Jr. | Hugh D. Lyon | J. Claude Stacy |
| Gus A. Brooks | H. McCartney | R. C. Stephenson |
| T. Fowler Combs | Ed. Marcum | Thomas M. Swope |
| M. A. Cornett | D. J. Moore | C. W. Taylor |
| John Henry Cox | L. D. Moore | Egbert Taylor |
| Rev. W. W. Crouch | C. E. Montgomery | Roy L. Taylor |
| Forest C. Easley | F. E. Morancy | Rev. H. Tinsley |
| W. W. Freeman | H. C. Patterson | Erna E. Tyra |
| Joseph J. Grace | B. W. Porter | S. J. Wagner |
| P. Bert Hall | Kleber F. Price | C. R. Walden |
| Fuller Harding | James E. Quill | H. A. Ward |
| E. R. Hilton | L. Allen Rhoads | Henry Ward |
| Chas. O. Humston | Dr. J. J. Rice | H. L. Waterfield |
| W. H. Hunt | Dr. K. N. Salyer | E. Reed Wilson |
| Crow Jarvis | Leon J. Shaikun | —59 |

Resolved that the title thereof be as aforesaid.

Mr. Barry moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

A message was received from the Senate announcing that they had passed bills and a resolution entitled:

S. B. 120. An Act relating to the liability for damages to property caused by blasting.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That all persons, firms, and corporations that cause, permit or carry on blasting operations resulting in damage to property, either by vibration or concussion or by casting fragments or debris shall be liable for such compensatory damages to the person aggrieved, regardless of negligence in such blasting.

S. B. 117. An Act relating to the manufacture, transportation and sale of distilled spirits in this commonwealth; providing for the manufacture, transportation and sale of distilled spirits in lieu of tax paid distilled spirits accidentally destroyed by fire, which may have been or may hereafter be manufactured under the provisions of Section 4214a-13, Kentucky Statutes, Carroll's 1936 Edition, and providing for the issual of duplicate tax free permits for such manufacture, transportation and sale, and repealing all conflicting laws.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That in the event distilled spirits have heretofore been manufactured under the provisions of Section 4214a-13, of the Kentucky Statutes, Carroll's 1936 Edition, same being Section 2, Chapter 149 of the Acts of the General Assembly of 1934, or may hereafter be manufactured under the provisions of said Section, or any amendment thereto, and the taxes imposed by said Section paid, and said distilled spirits manufactured heretofore or hereafter, shall have been or shall hereafter be, destroyed by accidental fire, through no fault of the owner thereof, duplicate permits shall be issued to the person who had manufactured said distilled spirits and paid the tax thereon, for the privilege of manufacturing, transporting and selling other distilled spirits in lieu there-

of, and no tax shall be imposed or collected for the privilege of manufacturing, transporting and selling an equal amount of such distilled spirits, provided the distilled spirits so destroyed were destroyed prior to the sale of such spirits by the actual manufacturer thereof and prior to the exportation of said spirits from the Commonwealth of Kentucky, and while said spirits were still stored on the premises where manufactured, or in warehouses adjacent thereto.

The person desiring to manufacture distilled spirits in lieu of tax-paid distilled spirits destroyed as set out above shall apply to the Tax Commission, or other proper State Agency for the issual of duplicate permits and the Tax Commission, or other State Agency in charge of issuing permits shall at once issue duplicate permits to the owner of the distilled spirits so destroyed for the same number of gallons as were destroyed by fire as set out above. There shall be no charge for the issual of said permits, but the manufacturer making such application shall furnish definite proof:

(a) That the distilled spirits so destroyed were tax-paid under the provisions of Sec. 4214a-13 of the Kentucky Statutes, 1936 Edition, or said Section as amended;

(b) That the distilled spirits so destroyed had not been sold by the manufacturer thereof prior to the time of the destruction;

(c) That said spirits were still stored on the premises where manufactured, or immediately adjacent to the premises where manufactured;

(d) The number of proof gallons destroyed;

(e) The cause of said destruction and that said destruction was accidental and not the fault of the owner thereof.

Provided that the Tax Commission, or other State Agency may accept the same proof of loss as that furnished to the United States Government under similar circumstances.

Section 2. It is hereby declared to be and to have been the Legislative intent to allow and to have allowed Kentucky manufacturers of distilled spirits to place upon the market one proof-gallon of distilled spirits, less shrinkage and leakage, for each such gallon tax-paid under the provisions of Section 4214a-13 Kentucy Statutes, Carroll's 1936 Edition, and to allow said Kentucky manufacturers of distilled spirits the same privileges under the Kentucky law which they now have and heretofore have had under the Federal law relating to accidental destruction of such spirits by fire.

Section 3. All laws or parts of law in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, the number "KRS 243.680" shall be substituted for "Section 4214a-13, of the Kentucky Statutes, Carroll's 1936 edition, same being Section 2, Chapter 149 of the Acts of the General Assembly of 1934" and for "Sec. 4214a-13 of the Kentucky Statutes, 1936 edition" where these phrases appear in section one of this Act.

S. B. 170. An Act relating to distilled spirits.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That any person or persons owning any distilled spirits which were manufactured prior to National Prohibition and upon which all Federal taxes have been paid shall have the right to withdraw same for his own personal use without the payment of the Kentucky Consumer's tax or any other excise taxes, and the proprietor of any free warehouse or of any distillery shall deliver such distilled spirits to the owner thereof.

Any person so owning such distilled spirits shall before the removal of same from any distillery or free warehouse

execute an affidavit and file it with the Administrator of the Distilled Spirits Unit in the Department of Revenue to the effect that such distilled spirits will be used only for personal consumption and are not to be withdrawn for purposes of re-sale and will not be placed in the ordinary channels of trade.

Upon the execution and filing of this affidavit the Administrator of the Distilled Spirits Unit shall issue a permit for the withdrawal of the distilled spirits and the owner of such distilled spirits shall be entitled to the immediate possession thereof and the proprietor of any bonded warehouse or distillery shall deliver same directly to the owner.

If after withdrawing such distilled spirits any person sells same, or any part thereof, or places same in the ordinary channels of trade he shall be fined not less than Five Hundred ($500.00) Dollars nor more than Two Thousand ($2,000.00) Dollars or imprisoned for not less than thirty days nor more than sixty days, or both.

Ordered that said bills be printed and referred

To Committee on Rules.

And that they had passed a bill and a resolution which originated in this House, entitled:

H. B. 156. An Act relating to revenue and taxation; providing for the exemption of alcohol and distilled spirits, etc.

H. Res. 72. Resolution petitioning the Senate of the United States of America to enact into law a bill relating to labor disputes.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled, viz.:

H. B. 249. An Act relating to the business of insurance companies other than life.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 687 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

(1) Subject to the provisions of subsection (3) of this section, any company authorized by law to engage in the business of insurance, other than life insurance, in this state, may do the business of fire insurance, which shall include insurance against loss or damage to property and loss of use and occupancy by fire, lightning, storm, hail, tempest, earthquake, frost or snow, explosion with fire ensuing and explosion with no fire ensuing, except explosion by steam boilers or fly wheels; against loss or damage by water caused by the breakage or leakage of sprinklers, pumps or other apparatus, water pipes, plumbing or their fixtures, erected for extinguishing fires, and against accidental injury to such sprinklers, pumps, other apparatus, water pipes, plumbing or fixtures; against the risk of inland transportation and navigation upon vessels, freights, goods, money, effects, and money loaned on bottomry or respondentia; against the perils of the sea and other perils usually insured against by marine insurance; upon automobiles, whether stationary or operated under their own power, against loss or damage by any of the causes or risks mentioned herein, including also transportation, collision, liability for damage to property resulting from owning, maintaining or using automobiles and including burglary and theft, but not including loss or damage by reason of bodily injury to the person; and by and with the

approval of the Director of Insurance against other loss or damage to property or interest therein the insurance against which is not exclusively delegated to another class or kind of company.

(2) Subject to the provisions of subsection (3) of this section, any company authorized by law to engage in the business of insurance, other than life insurance, in this state, may write any of the following kinds of insurance:

(a) Upon the health of persons, or against injury, disablement or death of persons resulting from traveling or general accidents by land or water, and against the liability of employers for injuries to persons in their employment;

(b) To guarantee the fidelity of persons holding places of trust, private or public, and to act as surety on official bonds, and for the performance of other obligations;

(c) Upon the lives of horses, cattle or other livestock;

(d) Upon plate glass against breakage;

(e) Upon steam boilers against explosion and against loss or damage to life or property resulting therefrom;

(f) Against loss by burglary or theft, or both;

(g) To examine titles to real property and chattels real, to procure and furnish information in relation thereto, and to make and guarantee the correctness of searches for all instruments, liens or charges affecting the same, and guarantee or insure bonds and mortgages, and the owners of real property and chattels real, and others interested therein against loss by reason of defective titles thereto, and other encumbrances thereon;

(h) To guarantee and indemnify merchants, traders and those engaged in business and giving credit, from loss and damage by reason of giving and extending credit to their customers and those dealing with them, and to cause itself to be insured against any loss or risk it may have incurred in the course of its business, and upon the interest which it

may have in any property by means of any loans which it may have made on mortgages;

(i) Upon automobiles and all other cars and vehicles, including public liability, property damage, collision, fire and burglary and theft insurance, and to insure the owners of such automobiles and all other cars and vehicles against such losses as arise out of the ownership, operation or maintenance of the same, and generally to do and perform all other matters and things proper to promote these objects.

(3) Companies organized to write the classes of business described in subsection (1) of this section shall write only those classes of business authorized therein, and companies organized to write the classes of business described in subsection (2) of this section shall write only those classes of business authorized therein, and no company organized to do either of such classes of business shall undertake any business or risks not provided for in this section

(4) Any company organized for the purpose named in the subsection (2) of this section may become sole surety in all cases where, by law, two or more sureties are required for the faithful performance of any trust or office, but no officer shall be required to accept any such company as surety. Any officer may, before accepting a domestic company as surety, require an examination of the condition and affairs of the company, and before accepting a foreign company as surety shall be satisfied that the company will be sufficient surety, and for that purpose the officers and affairs of a foreign company shall be subject to examination by the officer. If the company is accepted as surety, the court or officer taking the bond, or any officer or fiduciary for whom the company becomes surety, may place any securities, money or valuables in the custody of such company for safekeeping.

(5) No company doing business in this state shall undertake to do more than one of the several kinds of insurance named in subsection (2) of this section unless the company first has on deposit, with the Custodian of Insurance

Securities, or with the insurance commissioner or chief financial officer of some other state of the United States, the sum of one hundred thousand dollars, and an additional sum of fifty thousand dollars for each additional kind of insurance more than one that the company may undertake in this state. The deposit shall be invested as required by law. Any company doing more than one kind of business named in subsection (2) of this section shall make a separate report and sworn statement for each kind of business done, such as is now required of companies doing but one kind of business in this state. No company organized or transacting business in this state shall expose itself to loss on any one risk or hazard to an amount exceeding ten percent of its paid-up capital and surplus, exclusive of the amount of any such risk secured by collateral, unless the excess is reinsured by the company in some good and reliable company having authority to transact business in this state, but this limitation shall not apply to any bonds or securities furnished to the United States, or to any court or officer thereof. If the directors allow to be insured on a single risk a larger sum than the law permits, they shall be liable for any loss thereof above the amount they might lawfully insure. If a company is under liability for losses equal to its net assets, and the president and directors, knowing it, make or assent to further insurance, they shall be personally liable for any loss under such insurance.

Section 2. Sections 723 and 762a-23 of Carroll's Kentucky Statutes, 1936 edition, are repealed.

Section 3. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, subsections (1), (2) and (3) of section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 298.030; subsection (4) of section one of this Act shall be substituted in place of KRS 298.050; subsection (5) of section one of this Act shall be substituted in place of KRS 298.040; this Act shall thereafter be treated as amend-

ing the Kentucky Revised Statutes, rather than Carroll's Statutes; and the number "KRS 298.030" shall be substituted for "this section" in subsections (4) and (5) of section one of this Act.

Mr. McCartney offered the following amendment to said bill, viz.:

Amend H. B. 249 on page 2, section 1, line 26 by inserting at the end thereof the following:

"Any mutual insurance company, other than an assessment or cooperative company, authorized by law to engage in the fire insurance business in Kentucky, shall have the authority to transact the kind of business described in this subsection."

Said amendment was agreed to.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | John Henry Cox | W. A. Lamkin |
| George P. Anderson | Rev. W. W. Crouch | William Lovett |
| Robert E. Barry | Forest C. Easley | Harry K. Lowman |
| W. T. Beard | T. P. Fitzpatrick | Hugh D. Lyon |
| Douglas T. Bolling | Joseph J. Grace | H. McCartney |
| H. M. Brock, Jr. | Fuller Harding | Ed. Marcum |
| Gus A. Brooks | E. R. Hilton | J. Milton Mefford |
| Sherman E. Carter | Chas. O. Humston | D. J. Moore |
| T. Fowler Combs | W. H. Hunt | C. E. Montgomery |
| M. A. Cornett | John S. Juett | F. E. Morancy |

| | | |
|---|---|---|
| C. Sid Nabb | Leon J. Shaikun | Rev. H. Tinsley |
| Coy Nevitt | Clyde Smith | Erna E. Tyra |
| H. C. Patterson | Otto Smither | S. J. Wagner |
| B. W. Porter | Charles L. Spilman | C. R. Walden |
| Kleber F. Price | James D. Stacey | Harry Walters |
| James E. Quill | J. Claude Stacy | H. A. Ward |
| L. Allen Rhoads | R. C. Stephenson | Henry Ward |
| Dr. J. J. Rice | C. W. Taylor | H. L. Waterfield |
| Wade H. Riley | Egbert Taylor | |
| Dr. K. N. Salyer | Roy L. Taylor | —58 |

Resolved that the title thereof be as aforesaid.

Mr. McCartney moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day a bill entitled:

H. B. 284. An Act relating to agricultural seeds.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

1. Section 1376b-15 of Carroll's Kentucky Statutes, 1936 Edition, is amended as follows:

2. Every lot of agricultural seeds, as defined in section one (K. S. 1376b-14) of this Act except as herein otherwise provided, when in bulk, packages or other container of one pound or more, or in the case of tobacco seed in bulk, packages or other container of one-half ounce or more, shall have

affixed thereto, in a conspicuous place on the exterior of the container of such agricultural seeds, a plainly written or printed tag or label in the English language, in a manner prescribed by the Director of the Kentucky Agricultural Experiment Station or his agent, stating:

(a) Commonly accepted name of such agricultural seeds.

(b) The approximate percentage by weight of purity; meaning, the freedom of such agricultural seeds from inert matter and from other seeds distinguishable by their appearance.

(c) The approximate total percentage by weight of weed seeds; the term "weed seeds," as herein used, being defined as the noxious weed seeds listed in Section 2, (K. S. 1376b-15) subsection (d) and all seeds not listed in Section 1 (K. S. 1376b-14) as agricultural seeds.

(d) The name and approximate number per ounce of each kind or the seeds or bulblets of the noxious weeds provided for in Section 2, (K. S. 1376b-15) subsection (d) of this Act which are present per ounce of agricultural seeds.

Noxious weed seeds or bulblets are defined as seeds or bulblets of quack-grass (Agropyron repens), dodder (Cuscuta sp.), sorrel (Rumex acetosella), buckhorn (Plantago lanceolata), corn cockle (Agrostemma githago), wild onion (Allium vineals), Canada thistle (Cirsium arvense), and such other weeds as the Director of the Kentucky Agricultural Experiment Station or his agent may from time to time determine to be noxious and a menace to the best interests of the agriculture of Kentucky: Provided, however, that twelve months notice shall be given to the seed trade before any addition to the noxious weed seed list shall become effective.

(e) The approximate percentage of germination of such agricultural pure seeds designated together with the month and year said seeds were tested.

(f) Full name and address of the vendor of such agricultural seed.

(g) Name of State where such seed was grown, and if this is unknown, a statement to that effect (1932, c.6, 2).

3. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall stand repealed as of the effective date of the Kentucky Revised Statutes, and the following shall take effect in lieu thereof:

Every lot of agricultural seeds, when in bulk or a container of one pound or more, or in the case of tobacco seed of one-half ounce or more, shall have affixed, in a conspicuous place on the exterior of the container of the seeds, a label in plainly written or printed English, in a manner prescribed by the director, stating:

(1) The commonly accepted name of the seeds;

(2) The approximate percentage by weight of purity, which means the freedom of the seeds from inert matter and from other seeds distinguishable by their appearance;

(3) The approximate total percentage by weight of noxious weed seeds;

(4) The name and approximate number per ounce of each kind of noxious weed seeds present, per ounce of agricultural seeds;

(5) The approximate percentage of germination of agricultural pure seeds designated, together with the month and year the seeds were tested;

The full name and address of the seller of the seed; and

(7) The name of the state where the seed was grown, and if this is unknown, a statement to that effect.

The provision so substituted by this section shall thereafter be treated as an amendment to KRS 250.040 rather than an amendment to § 1376b-15 of Carroll's Statutes, and

KRS 250.010 shall remain in full force and effect and shall not be treated as affected by this Act.

Mr. Walters offered the following amendments to said bill, viz.:

1. Amend H. B. 284 on page 1, section 2, line 4 after the word "of" and before the word "ounce" strike the word "one-half" and insert in lieu thereof the word "one-quarter".

2. Amend H. B. 284 on page 2, section 3, line 6 after the word "of" and before the word "ounce" strike the word "one-half" and insert in lieu thereof the word "one-quarter".

3. Amend H. B. 284 on page 3, section 3 after subsection (7) and after line 23, insert the following subsection:

"(8) The year in which the seed was produced."

Said amendments were each agreed to.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| Robert E. Barry | Rev. W. W. Crouch | Clyde S. Howard |
| W. T. Beard | Forest C. Easley | Chas. O. Humston |
| Robert E. Beatty | T. P. Fitzpatrick | W. H. Hunt |
| Douglas T. Bolling | Joseph J. Grace | Joe B. Jarboe, Jr. |
| H. M. Brock, Jr. | Bert P. Hall | John S. Juett |
| T. Fowler Combs | Fuller Harding | W. A. Lamkin |
| M. A. Cornett | E. R. Hilton | A. L. Love |

| | | |
|---|---|---|
| Harry K. Lowman | B. W. Porter | R. C. Stephenson |
| Hugh D. Lyon | Kleber F. Price | C. W. Taylor |
| H. McCartney | James E. Quill | Egbert Taylor |
| Norris McPherson | L. Allen Rhoads | Roy L. Taylor |
| Dr. Wm. C. Mann | Dr. J. J. Rice | Rev. H. Tinsley |
| Ed. Marcum | Wade H. Riley | S. J. Wagner |
| J. Milton Mefford | Carl Scheben | C. R. Walden |
| D. J. Moore | Leon J. Shaikun | Harry Walters |
| C. E. Montgomery | Faust Y. Simpson | H. A. Ward |
| F. E. Morancy | Clyde Smith | Henry Ward |
| E. R. Morlidge | Otto Smither | H. L. Waterfield |
| C. Sid Nabb | James D. Stacey | E. Reed Wilson |
| Robert Nicholas | J. Claude Stacy | —59 |

Those who voted in the negative were—

| | | |
|---|---|---|
| Gus A. Brooks | Coy Nevitt | Erna E. Tyra |
| Oris Cooper | | —4 |

Resolved that the title thereof be as aforesaid.

Mr. Walters moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Beard of the Committee on Enrollment reported that they had examined and found to be correctly enrolled, bills and a resolution entitled:

H. B. 156. An Act relating to revenue and taxation providing for the exemption of alcohol and distilled spirits, etc.

S. B. 17. An Act relating to state warrants.

S. Res. 7. Resolution for benefit of the Bank of Blaine.

Thereupon all other business was suspended, said bills

and resolution were read at length and compared in open session and found to be correctly enrolled, and thereupon the Speaker, in open session and in the presence of the House, affixed his signature thereto.

Ordered that the bill and resolution which originated in the Senate, be delivered to the Enrolling Clerk of the Senate.

Ordered that the Enrolling Clerk of this House deliver said bill which originated in this House to the Senate.

After a time the Enrolling Clerk aforesaid delivered the original and enrolled copies of said bill, duly signed by the President of the Senate, into the possession of the Chief Clerk of this House.

Ordered that the Chief Clerk deliver said bill to the Governor.

After a time the Chief Clerk reported that he had discharged that duty.

Mr. Henry Ward moved that the House do now recess for one hour.

Said motion was agreed to.

And then the House recessed.

One hour having expired, the Speaker resumed the Chair and called the House to order.

A message was received from the Senate announcing that they had passed bills which originated in this House, entitled:

H. Res. 30. Resolution ratifying and approving the Interstate Compact to conserve oil and gas.

H. B. 83. An Act relating to public parks in cities of the second class.

H. B. 214. An Act to provide for the conservation of wild animals, wild birds, fish and amphibians.

With an amendment thereto as proposed and adopted by the Senate.

Thereupon the House took up for consideration said bill and amendment thereto.

(For bill see House Journal of February 10.)

Said amendment as proposed and adopted by the Senate, is as follows, viz.:

Amendment to House Bill No. 214. By striking out all of section 34 on page 16 and inserting in lieu thereof the following:

Section 34. Bag limits of birds. (1) No person shall, in any one day, take more wild birds for which there is an open season, than the bag limit for the species as set out herein:

| | |
|---|---|
| Quail | 12 |
| Doves | Federal Regulations apply. |
| Ducks | Federal Regulations apply. |
| Geese | Federal Regulations apply. |
| Coots and Gallinule | Federal Regulations apply. |
| Woodcock | Federal Regulations apply. |
| Snipe | Federal Regulations apply. |

In which they ask the concurrence of this honorable body.

Attest: .....
Assistant Clerk of Senate

Said amendment was then concurred in.

Said bill was then passed, as amended.

The yeas and nays being taken thereon, in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| Robert E. Barry | Chas. O. Humston | Dr. J. J. Rice |
| W. T. Beard | John S. Juett | Wade H. Riley |
| Robert E. Beatty | W. A. Lamkin | Dr. K. N. Salyer |
| Douglas T. Bolling | A. L. Love | Carl Scheben |
| Sherman E. Carter | Hugh D. Lyon | Leon J. Shaikun |
| T. Fowler Combs | H. McCartney | Otto Smither |
| M. A. Cornett | Dr. Wm. C. Mann | Charles L. Spilman |
| John Henry Cox | Ed. Marcum | J. Claude Stacy |
| Rev. W. W. Crouch | J. Milton Mefford | R. C. Stephenson |
| Guthrie F. Crowe | C. E. Montgomery | Thomas M. Swope |
| Forest C. Easley | F. E. Morancy | C. W. Taylor |
| T. P. Fitzpatrick | E. R. Morlidge | Egbert Taylor |
| W. W. Freeman | C. Sid Nabb | Rev. H. Tinsley |
| Joseph J. Grace | Coy Nevitt | C. R. Walden |
| Bert Hall | Robert Nicholas | Harry Walters |
| E. R. Hilton | B. W. Porter | Henry Ward |
| Clyde S. Howard | Kleber F. Price | H. L. Waterfield |
| Jerry F. Howell | James E. Quill | —53 |

Mr. Freeman moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Ordered that said bills and resolution be delivered to the Enrolling Clerk of this House.

At the instance of the Committee on Rules, the House

took up for consideration from the Orders of the Day a bill entitled.

H. B. 64. An Act to revise certain Probate Laws of the Commonwealth of Kentucky and to provide certain probate procedure in the county court to simplify the same by definitions and a common statement of qualifications and duties, and permitting the designation of an attorney, if desired, and requiring written application and notice to heirs before appointment of a fiduciary or the probate of a will; to amend Section 1058 of Carroll's Kentucky Statutes, 1936 Edition, by permitting the probate of wills at special sessions of the county court; to repeal, amend and reenact Section 3868 of said Statutes, relating to preferred debts and pro rata distribution of estates; to repeal, amend and reenact Sections 2149 and 216AA-81 of said Statutes, relating to the jurisdiction of the appointment of committees; to require publication of notice to creditors of estates; to repeal, amend and reenact Sections 3851, 3852, 3853 and 3854 of said Statutes, relating to the sale of personal property by fiduciaries; to repeal, amend and reenact Sections 3849 and 3855 of said Statutes, relating to the time of filing an inventory; to repeal, amend and reenact Sections 1065, 1067, 2029, 2037, 3857 and 3858 of said Statutes, relating to accounting by fiduciaries and providing penalties for failure to account; to provide for the publication of notice of settlements; to repeal, amend and reenact Section 3847 of said Statutes, relating to when an action may be brought against a personal representative; to repeal, amend and reenact Section 2087 of said Statutes, relating to the period of time debts remain a lien on decedent's real estate; to repeal, amend and reenact Section 3860 of said Statutes, relating to when a distribution of an estate may be made.

With a Committee amendment thereto by way of Substitute therefor.

Said bill is as follows, viz.:

WHEREAS, the Probate Laws of the Commonwealth of Kentucky are in need of revision so as to shorten the period of administration of estates, to protect trusts from defalcations and to more fully safeguard the rights of creditors, distributees and wards; and,

WHEREAS, the following revisions are considered to be the most urgent and except for such changes, the Probate Laws will remain as at the present time,

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

1. *Definition.* The term "fiduciary" as uesd in this act means any person, association or corporation (other than assignee or trustee for an insolvent debtor, or a guardian under the uniform veterans' guardianship act) appointed by, or under the control of, or accountable to the county court, including executors, administrators, administrators with the will annexed, trustees, curators, guardians and committees.

2. *Who May Be Appointed.* Any resident of the State of Kentucky, including married women, over 21 years of age and any corporation authorized by law to act as such in the State of Kentucky may be appointed as fiduciary.

3. *Appointment and Duties.* Every fiduciary, before entering upon the execution of the trust, shall receive letters of appointment from the county court having jurisdiction of the subject matter of the trust. The duties of a fiduciary shall be such as are required by law, and such additional duties not inconsistent therewith as the court may order.

4. *Representation by Attorney.* At the time of appointment of a fiduciary, he may designate an attorney who will represent him in matters relating to the trust and when so designated, notices to such fiduciary shall also be sent by

the court to such attorney, but no fiduciary shall be required to be represented by attorney.

5. *Application for Appointment as Fiduciary.* Before being appointed as executor, administrator, curator, or administrator with the will annexed, every person shall make and file in duplicate a written application under oath, which must state the names of the deceased's surviving spouse and all of his next of kin or such as are known, their postoffice address if known, the date of death and also a statement in general terms as to what the estate consists of and the probable value of the personal and real estate and also a statement of any indebtedness owing by the applicant to the deceased. A duplicate copy of said application shall be mailed by the clerk to the Commissioner of Revenue of the State of Kentucky. In case of intestacy, if there be no surviving spouse, or if such spouse waives the right of appointment or is not qualified to act and there are more than one resident next of kin in the county entitled to appointment, the court shall thereupon appoint a time for hearing such application. Notice of said hearing shall be given to the surviving spouse and all heirs of the deceased residing in the State, in the manner herein provided.

Before being appointed as guardian or committee, every person shall make and file in duplicate a written application under oath, which must state the name, age and residence of the ward, the ward's husband or wife and each of the ward's parents, or if there be no spouse or parents living in the State, the names, ages and residence of the next of kin, the name of the person having custody of the ward, a brief description of the ward's estate and its probable value, and the estimated annual income therefrom. A duplicate copy of said application shall be mailed by the clerk to the Commissioner of Revenue of the State of Kentucky. The court shall thereupon appoint a time for hearing such application. Notice thereof shall be given to the minor if more than fourteen

years of age; to the person having custody of the ward; to the husband or wife and each parent of the ward, or if none, to the next of kin residing in the state in the manner herein provided.

6. *Application for Probate of Will.* When any will is offered for probate, the court shall require a verified application to be filed by the person offering the same. Such application shall state the residence of the testator at the time of his death and such other facts as may be necessary to establish the jurisdiction of the court, and the names, ages and postoffice addresses of the testator's surviving spouse and heirs at law, or such as are known. Said application shall be set for hearing and notice thereof shall be given to such surviving spouse and heirs in the manner herein provided. An application for probate and for appointment as executor or administrator with the will annexed may be combined in one application.

7. *Notice of Hearing.* Notice of hearing of an application for the appointment of a fiduciary or the probate of a will shall be given by mailing written notice of the time, place and purpose of such hearing at least five days before said hearing. Proof of such notice shall be by registered mail receipt or by applicant's affidavit that the same was mailed to each of the parties entitled thereto in a sealed envelope, postage prepaid, and the date when posted, which proof shall be filed at the time of hearing. If all parties entitled to notice are under no disability and waive notice in writing, the court may hear such application as if notice had been given. A minor over fourteen years of age may waive notice if present in person at the time of hearing of application for appointment of his guardian.

8. That Section 1058 of Carroll's Kentucky Statutes, 1936 Edition, be amended by striking therefrom the words "probating of a will, or" so that said section, as amended, shall read as follows:

Section 1058. *Monthly Terms; Change; Special Terms.* There shall be a regular term of the county court held by the county judge in each county once every month on Monday, and until changed as herein provided, shall be held on the same day it now is. The time of holding the county court in any county may be changed by an order made by the county judge and entered upon the records of the county court at the last regular term held in the year next preceding the year in which the change is to be made. Special terms of the county court may be held at any time for the transaction of any business except granting tavern, liquor, or druggist license; and the court may adjourn from time to time until the business is disposed of, but no adjournment shall be to a time beyond the commencement of the next regular term.

9. *Notice to Creditors; Publication.* Within ten days after the order of appointment, the clerk of county court shall cause to be published in a newspaper having general circulation in the county once a week for three consecutive weeks, a notice which shall be substantially as follows: Notice to Creditors. Administration has been granted by the county court upon the following estates: ..... Administrator or Executor of the Estate of ..... Address ..... All persons having claims against said estates are notified to present them, verified according to law, not later than ..... Said date shall be fixed by the clerk at four months after the first publication of said notice. The actual cost of such notice or the proportionate part thereof, if more than one notice, shall be charged by the clerk as costs.

10. That Section 3868 of Carroll's Kentucky Statutes, 1936 Edition, be amended by inserting after the words "burial expenses of such decedent", the following words "not exceeding in amount the sum of $250.00", so that said section, as amended, shall read as follows:

Section 3868. If the personal estate of a decedent be not

sufficient to pay his liabilities, then the burial expenses of such decedent, not exceeding in amount the sum of $250.00, and the cost and charges of the administration of his estate, and the amount of the estate of a dead person, or of a ward, or of a person of unsound mind, committed by a court of record to, and remaining in the hands of, a decedent, shall be paid in full before any pro rata distribution shall be made; but this preference shall not extend to a demand foreign to this state. All other debts and liabilities shall be of equal dignity, and paid ratably in the administration of his estate, and should more than the ratable share of any debt be paid, his personal representative shall only receive credit for its proper proportion.

11. That Sections 3851, 3852, 3853 and 3854 of Carroll's Kentucky Statutes, 1936 Edition, relating to sales of personal property of decedents, be repealed, amended and reenacted so that, as amended and reenacted, said sections shall read as follows:

*Sale of Personal Property.* At any time after the appointment of a fiduciary, the court, when satisfied that it would be for the best interests of the estate, may authorize such fiduciary to sell, at public or private sale, at a fixed price or for the best price obtainable, and for cash or on such terms as the court may determine, any part or all of the personal property belonging to the estate, including dividend paying securities, except:

1. Such as the surviving spouse, if any, desires to take at the appraised value according to law.

2. Property specifically bequeathed, when sale of such property is not necessary for the payment of debts provided that such property may be sold with the consent of the person or persons entitled thereto.

3. Property as to which distribution in kind has been demanded prior to the sale by the surviving spouse or other beneficiary entitled to such distribution in kind.

4. Property which the court in its discretion directs be not sold pursuant to wish expressed by decedent in his will, if any, or which may be suitable to a division in kind; but at any later period, on application of a party interested, the court may, and for good cause shall, require such sale to be made.

If the court directs any of such personal property to be sold at public sale, the court shall also direct the nature and extent of the advertising of such sale.

Nothing herein shall limit or qualify the powers granted by will to executors and trustees.

12. That Sections 2149 and 216AA-81 of Carroll's Kentucky Statutes, 1936 Edition, be repealed, amended and reenacted so as to read as follows:

*Committees; Appointment and Accounting of.* The county courts shall have exclusive jurisdiction of the appointment and accounting of committees. Application shall be filed and notice given in the same manner required for guardians. There shall be filed with said application a statement from the clerk of the circuit court that the incompetent has been adjudged as such. Appointment shall be made, bond executed, and accounting required in the same manner as guardians and actions upon such bond may be maintained by any person aggrieved by a breach thereof.

13. That Section 3849 of Carroll's Kentucky Statutes, 1936 Edition, be amended by changing "three months" to "one month" so that said Section, as amended, shall read as follows:

Section 3849. *Appraisers and Their Duty.* The county court in which a will is proved or administration granted, shall appoint three persons, any two of whom may act, being first sworn to discharge the duty assigned to them to the best of their judgment. It shall be their duty to view and appraise such estate as the personal representative shall exhibit to

them, and subscribe and return such appraisement to the clerk's office of the court appointing them within one month after their appointment. If the appraisers believe the whole personal estate has not been exhibited to them, they shall report the fact to the court.

14. That Section 3855 of Carroll's Kentucky Statutes, 1936 Edition, be repealed, amended and reenacted so as to read as follows:

Section 3855. *Inventory; to be Returned; Copies Evidence.* It shall be the duty of a personal representative of a decedent to return an inventory in duplicate within one month from the time of qualifying as such to the clerk's office of the court in which he qualified, the original of which shall be recorded by the clerk and the duplicate shall be mailed by the clerk to the Commissioner of Revenue. Copies from the record of the inventory or appraisement shall be prima facie evidence for or against such representative.

15. To repeal, amend and reenact Sections 1065, 2029, 2037, 3857 and 3858 of Carroll's Kentucky Statutes, 1936 Edition, relating to accounting by fiduciaries and penalties for failure to account, so that said sections as reenacted, shall read as follows:

*Accounts; When Required; Proof of Balances and Securities.* One year after appointment and annually thereafter, unless otherwise provided by law, every fiduciary, including committees for incompetent persons, must render an account of the execution of his trust to the court by which he was appointed, including in such account an itemized statement of receipts and disbursements supported by vouchers accompanying the same and a statement of all investments and changes in investments since the filing of his last account. Provided, however, that guardians, committees and trustees under continuing trusts, after their first accounting, shall render their accounts thereafter bi-annually, or at shorter intervals if the court shall require it. Such settlements, when

approved and confirmed by the court, shall be recorded and indexed by the clerk, and the original and the vouchers carefully kept by him in his office. An account shall be rendered by the fiduciary at any other time upon order of the court upon its own motion or that of any person interested in the trust, for good cause shown on affidavit. At the expiration of his trust such fiduciary must fully account for and pay over the trust estate to the person or persons entitled thereto. Every such account shall list all unpaid creditors whose claims have been allowed and all creditors whose claims have been disallowed. No account of a fiduciary shall be approved until there are exhibited to the court, for its examination, the security or securities shown in said account as being in the hands of the fiduciary, or the certificate of a bank having possession thereof or in which they have been deposited for safekeeping, and a certified bank statement showing the funds to the credit of the trust.

*Penalty for Failure to Account.* If a fiduciary neglects or refuses to file an inventory or account when due according to law, or when ordered by the court, the court shall notify the fiduciary of his delinquency and any fiduciary failing, without good cause therefor, to file his inventory or account as required by law, shall be fined by the court for each day he so neglects or refuses after such notice, the sum of Ten ($10.00) Dollars, to be collected by rule or other process. (K. S. 1065, 3857). Unless there is pending in the circuit court a suit to settle the estate such neglect or refusal shall be grounds for removal by the court. If the fiduciary fails to file such account within thirty days after he has been so notified, no allowance shall be made for his services unless the court enters upon its minutes an order that such delay was reasonable.

*Duties of Clerk and Judge.* It shall be the duty of the clerk to report in writing to the judge once each month the names and addresses of all fiduciaries who have during the

previous calendar month become delinquent in filing an inventory or settlement. The judge shall notify by mail such delinquent fiduciaries and shall warn them of the penalties provided by law. If the clerk shall fail to report such delinquents it shall be the duty of the judge to secure a list of same from the court records. There shall be taxed as costs in each delinquent case a fee of Twenty-Five ($.25) Cents for the preparation of said list and the mailing of said notice, to be divided between the clerk and the judge. If the list of said delinquents is secured by the judge he shall be entitled to all of said fee. If the judge shall fail to mail such notices it shall be the duty of the clerk to do so and he shall be entitled to all of said fee.

16. That Section 1067 of Carroll's Kentucky Statutes, 1936 Edition, be repealed, amended and reenacted so as to read as follows:

Section 1067. *Settlements Filed by Clerk; Exceptions; Vouchers, New Evidence.* The clerk shall endorse on the report the time of filing the same and it shall lay over not less than ten days until the first day of the next term of court, to be known as the date of hearing, during which, or at which, exceptions may be filed by any person interested. If no exceptions are filed the report, if made according to law, shall be approved and recorded. If exceptions are filed, other evidence besides that reported may be heard, and the court shall, upon the whole case, reject, confirm, alter or amend the report, and if confirmed, order it to be recorded. The vouchers accompanying the report shall not be recorded, but must be carefully kept on file with the report in the clerk's office. Any new evidence given in court must be reduced to writing and filed with the report. Settlements so made and recorded shall be prima facie evidence between the parties interested.

17. *Notice of Filing Settlement.* Not less than ten days prior to the date of hearing, the clerk shall cause notice of

the filing of a settlement to be published in a newspaper of general circulation in the county, stating the name of the fiduciary, the trust, the nature of the account and the date of hearing, with a statement that exceptions must be filed before that time. The actual cost of such notice, or the proportionate part thereof, if more than one settlement, shall be taxed as costs. Provided, however, that with the court's approval the fiduciary may, in lieu of such publication, send a written notice thereof to all unpaid creditors and distributees, which notice shall be mailed at least ten days before said date of hearing. The fiduciary in such cases shall file his affidavit that such notice has been mailed.

18. That Section 3847 of Carroll's Kentucky Statutes, 1936 Edition, be amended so as to permit the filing of a suit against a personal representative after five months, so that said section, as amended, shall read as follows:

Section 3847. *Action Against; When May Be Commenced.* Five months must run after date of the qualification of the first personal representative of a decedent's estate, before an action shall be commenced against any executor or administrator thereof except against an executor de son tort. Any action brought in violation of this action shall be dismissed with costs.

19. That Section 2087 of Carroll's Kentucky Statutes, 1936 Edition, be repealed, amended and reenacted so that the period of time during which debts remain a lien on real estate will be reduced from twelve months to six months, so that said section, as reenacted shall read as follows:

Section 2087. *Alienation before Suit Vests Purchaser with Title; Liability of Heir.* When the heir or devisee shall alien, before suit brought, the estate descended or devised, he shall be liable for the value thereof, with legal interest from the time of alienation, to the creditors of the descendant or testator; but the estate so alienated shall not be liable to the creditors in the hands of a bona fide purchaser for val-

uable consideration, unless action is instituted within six months after the estate is devised or descended to subject the same.

20. That Section 3860 of Carroll's Kentucky Statutes, 1936 Edition, be repealed, amended and reenacted so as to permit the distribution of estates after six months instead of nine months, so that said section, as reenacted, shall read as follows:

Section 3860. *Distribution of Estate.* A personal representative may distribute the estate of a decedent six months after qualification.

21. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section eight of this act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 25.120, and thereafter be treated as an amendment to KRS 25.120 rather than an amendment to § 1058 of Carroll's Statutes.

22. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section ten of this act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 396.090, and thereafter be treated as an amendment to KRS 396.090 rather than an amendment to § 3868 of Carroll's Statutes.

23. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section eleven of this act shall be treated as repealing KRS 395.200, 395.210 and 396.120, regardless of the date of enactment or taking effect of the Kentucky Revised Statutes.

24. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section twelve of this act shall be treated as repealing KRS 202.150 and subsections (1) and (3) of KRS 387.210, regardless of the date of enactment of taking effect of the Kentucky Revised Statutes but KRS 387.010 shall remain in full force and effect and shall not be treated as affected by this act.

25. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section thirteen of this act shall be treated as repealing subsections (1), (2) and (4) of KRS 395.180, regardless of the date of enactment or taking effect of the Kentucky Revised Statutes.

26. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section fourteen of this act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 395.250, and thereafter be treated as an amendment to KRS 395.250 rather than an amendment to § 3855 of Carroll's Statutes.

27. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section fifteen of this act shall be treated as repealing KRS 25.990(4), 387.100(3), 387.180(2), and 395.990, regardless of the date of enactment or taking effect of the Kentucky Revised Statutes, and KRS 25.170 shall read as follows:

"The county judge shall make settlements with personal representatives, trustees, assignees, committees, curators and guardians in his county, or appoint a special commissioner to make such settlements."

28. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section sixteen of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 25.200, and shall thereafter be treated as an amendment to KRS 25.200 rather than an amendment to § 1067 of Carroll's Statutes, and KRS 25.190 shall remain in full force and effect and shall not be treated as affected by this act.

29. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section eighteen of this act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 395.270, and thereafter be treated as an amendment to KRS 395.270 rather than an amendment to § 3847 of Carroll's Statutes.

30. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section nineteen of this act shall, upon the the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 396.110, and thereafter be treated as an amendment to KRS 396.110 rather than an amendment to § 2087 of Carroll's Statutes.

31. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section twenty of this act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 395.190, and thereafter be treated as an amendment to KRS 395.190 rather than an amendment to § 3860 of Carroll's Statutes.

Said Substitute is as follows, viz.:

An Act to revise certain Probate Laws of the Commonwealth of Kentucky and to provide certain probate procedure in the county court; to simplify the same by definitions and a common statement of qualifications and duties, and permitting the designation of an attorney, if desired, and requiring written application and notice to heirs before appointment of certain fiduciaries; to amend Section 1058 of Carroll's Kentucky Statutes, 1936 Edition, by permitting the probate of wills at special sessions of the county court; to repeal, amend and reenact Sections 2149 and 216AA-81 of said Statutes, relating to the jurisdiction of the appointment of committees; to require publication of notice to creditors of estates; to repeal, amend and reenact Sections 3851, 3852, 3853 and 3854 of said Statutes, relating to the sale of personal property by fiduciaries; to repeal, amend and reenact Sections 3849 and 3855 of said Statutes, relating to the time of filing an inventory; to repeal, amend and reenact Sections 1065, 1067, 2029, 2037, 3857 and 3858 of said Statutes, relating to accounting by fiduciaries and providing penalties for failure to account; to provide for the publication of notice of settlements; to repeal, amend and reenact Section 3847 of said Statutes, re-

lating to when an action may be brought against a personal representative; to repeal, amend and reenact Section 2087 of said Statutes, relating to the period of time debts remain a lien on decedent's real estate; to repeal, amend and reenact Section 3860 of said Statutes, relating to when a distribution of an estate may be made.

WHEREAS, the Probate Laws of the Commonwealth of Kentucky are in need of revision so as to shorten the period of administration of estates, to protect trusts from defalcations and to more fully safeguard the rights of creditors, distributees and wards; and,

WHEREAS, the following revisions are considered to be the most urgent and except for such changes, the Probate Laws will remain as at the present time,

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

1. *Definition.* The term "fiduciary" as used in this act means any person, association, or coporation (other than assignee or trustee for an insolvent debtor, or a guardian under the uniform veterans' guardianship act) appointed by, or under the control of, or accountable to the county court, including executors, administrators, administrators with the will annexed, testamentary trustees, curators, guardians and committees.

2. *Who May be Appointed.* Any resident of the State of Kentucky, including married women, over 21 years of age and any National Bank located in Kentucky having fiduciary powers and any State Bank or Trust Company incorporated under the Laws of the State of Kentucky and authorized by law to act as such therein may be appointed as fiduciary.

3. *Appointment and Duties.* Every fiduciary, before entering upon the execution of the trust, shall receive letters of appointment from the county court having jurisdiction of

the subject matter of the trust. The duties of a fiduciary shall be such as are required by law, and such additional duties not inconsistent therewith as the court may order.

4. *Representation by Attorney.* At the time of appointment of a fiduciary, he may designate an attorney who will represent him in matters relating to the trust and when so designated, notices to such fiduciary shall also be sent by the court to such attorney, but no fiduciary shall be required to be represented by attorney.

5. *Application for Appointment as Fiduciary.* Before being appointed as executor, administrator, curator, or administrator with the will annexed, every person shall make and file in duplicate a written application under oath, which must state the names of the deceased's surviving spouse and all of his heirs at law or such as are known, their postoffice address if known, the date of death and also a statement in general terms as to what the estate consists of and the probable value of the personal and real estate and also a statement of any indebtedness owing by the applicant to the deceased. A duplicate copy of said application shall be mailed by the clerk to the Commissioner of Revenue of the State of Kentucky.

In case of intestacy, if there be no surviving spouse, or if such spouse waives the right of appointment or is not qualified to act and does not nominate a suitable administrator and there are more than one resident heir at law entitled to appointment, the court shall thereupon appoint a time for hearing such application. Notice of said hearing shall be given to the surviving spouse and all known heirs of the deceased residing in the State, in the manner herein provided.

Before being appointed as guardian or committee, every person shall make and file in duplicate a written application under oath, which must state the name, age and residence of the ward, the ward's husband or wife and each of the ward's parents, or if there be no spouse or parents living in the

State, the names, ages and residence of the next of kin, the name of the person having custody of the ward, a brief description of the ward's estate and its probable value, and the estimated annual income therefrom. A duplicate copy of said application shall be mailed by the clerk to the Commissioner of Revenue of the State of Kentucky. The court shall thereupon appoint a time for hearing such application. Notice thereof shall be given to the minor if more than fourteen years of age; to the person having custody of the ward; to the husband or wife and each parent of the ward, or if none, to the next of kin residing in the State in the manner herein provided.

6. *Application for Probate of Will.* When any will is offered for probate, the court shall require a verified application to be filed by the person offering the same. Such application shall state the residence of the testator at the time of his death and such other facts as may be necessary to establish the jurisdiction of the court, and the names, ages and postoffice addresses of the testator's surviving spouse and heirs at law, or such as are known. An application for probate and for appointment as executor or administrator with the will annexed may be combined in one application.

7. *Notice of Hearing.* When notice of hearing of an application for the appointment of an administrator, administrator with will annexed, guardian, or committee is required hereunder, it shall be given by mailing written notice of the time, place and purpose of such hearing at least five days before said hearing. Proof of such notice shall be by registered mail receipt or by applicant's affidavit that the same was mailed to each of the parties entitled thereto in a sealed envelope, postage prepaid, and the date when posted, which proof shall be filed at the time of hearing. If all parties entitled to notice are under no disability and waive notice in writing, the court may hear such application as if notice had been given. A minor over fourteen years of age may waive

notice if present in person at the time of hearing of application for appointment of his guardian; provided, however in any estate where the gross amount involved is less than One Thousand Dollars ($1,000.00) the court in its discretion may dispense with the requirements of this act relating to notice.

8. That Section 1058 of Carroll's Kentucky Statutes, 1936 Edition, be amended by striking therefrom the words "probating of a will, or" so that said section, as amended, shall read as follows:

Section 1058. *Monthly Terms; Change; Special Terms.* There shall be a regular term of the county court held by the county judge in each county once every month on Monday, and until changed as herein provided, shall be held on the same day it now is. The time of holding the county court in any county may be changed by an order made by the county judge and entered upon the records of the county court at the last regular term held in the year next preceding the year in which the change is to be made. Special terms of the county court may be held at any time for the transaction of any business except granting tavern, liquor, or druggist license; and the court may adjourn from time to time until the business is disposed of, but no adjournment shall be to a time beyond the commencement of the next regular term.

9. *Notice to Creditors; Publication.* Within ten days after the order of appointment, the clerk of county court shall cause to be published in a newspaper having general circulation in the county once a week for three consecutive weeks, a notice which shall be substantially as follows: Notice to Creditors. Administration has been granted by the county court upon the following estates: ..... Administrator or Executor of the Estate of..... Address..... All persons having claims against said estates are notified to present them, verified according to law, not later than ..... Said date shall be fixed by the clerk as four months, after the first publication of said notice. The actual cost of such

notice or the proportionate part thereof, if more than one notice, shall be charged by the clerk as costs.

The court may in its discretion dispense with such publication when the gross assets of an estate are insufficient to pay preferred claims.

10. That Sections 3851, 3852, 3853 and 3854 of Carroll's Kentucky Statutes, 1936 Edition, relating to sales of personal property of decedents, be repealed, amended and reenacted so that, as amended and reenacted, said sections shall read as follows:

*Sale of Personal Property.* At any time after the appointment of a fiduciary, whenever it shall be necessary to secure authority to sell personal property belonging to an estate, the county court, when satisfied that it would be for the best interests of the estate, may authorize such fiduciary to sell, at public or private sale, at a fixed price or for the best price obtainable, and for cash or on such terms as the court may determine, any part or all of the personal property belonging to the estate, including dividend paying securities, except:

A. Such tangible personal property as the surviving spouse, if any, desires to take at the apprasied value according to law.

B. Property specifically bequeathed, when sale of such property is not necessary for the payment of debts, provided that such property may be sold with the consent of the person or persons entitled thereto.

C. Property as to which distribution in kind has been demanded prior to the sale by the surviving spouse or other beneficiary entitled to such distribution in kind.

D. Property which the court in its discretion directs be not sold pursuant to wish expressed by decedent in his will, if any, or which may be suitable to a division in kind; but at any later period, on application of a party interested, the

court may, and for good cause shall, require such sale to be made.

If the court directs any of such personal property to be sold at public sale, the court shall also direct the nature and extent of the advertising of such sale.

Nothing herein shall limit or qualify the powers granted by will to executors and trustees.

11. That Sections 2149 and 216AA-81 of Carroll's Kentucky Statutes, 1936 Edition, be repealed, amended and reenacted so as to read as follows:

*Committees; Appointment and Accounting of.* The county courts shall have exclusive jurisdiction of the appointment and accounting of committees. Application shall be filed and notice given in the same manner required for guardians. There shall be filed with said application a statement from the clerk of the circuit court that the incompetent has been adjudged as such. Appointment shall be made, bond executed, and accounting required in the same manner as guardians and actions upon such bond may be maintained by any person aggrieved by a breach thereof.

12. That Section 3849 of Carroll's Kentucky Statutes, 1936 Edition, be amended by changing "three months" to "two months" so that said Section, as amended, shall read as follows:

Section 3849. *Appraisers and Their Duty.* The county court in which a will is proved or administration granted, shall appoint three persons, any two of whom may act, being first sworn to discharge the duty assigned to them to the best of their judgment. It shall be their duty to view and appraise such estate as the personal representative shall exhibit to them, and subscribe and return such appraisement to the clerk's office of the court appointing them within two months after their appointment. If the appraisers believe the whole personal estate has not been exhibited to them, they shall report the fact to the court.

13. That Section 3855 of Carroll's Kentucky Statutes, 1936 Edition, be repealed, amended and reenacted so as to read as follows:

Section 3855. *Inventory; to be Returned; Copies Evidence.* It shall be the duty of a personal representative of a decedent to return an inventory in duplicate within two months from the time of qualifying as such, to the clerk's office of the court in which he qualified, the original of which shall be recorded by the clerk and the duplicate shall be mailed by the clerk to the Commissioner of Revenue. Copies from the record of the inventory or appraisement shall be prima facie evidence for or against such representative.

14. To repeal, amend and reenact Sections 1065, 2029, 2037, 3857 and 3858 of Carroll's Kentucky Statutes, 1936 Edition, relating to accounting by fiduciaries and penalties for failure to account, so that said sections, as reenacted, shall read as follows:

*Accounts; When Required; Proof of Balances and Securities.* One year after appointment and annually thereafter, unless otherwise provided by law, every fiduciary must render an account of the execution of his trust to the court by which he was appointed, including in such account an itemized statement of receipts and disbursements supported by vouchers accompanying the same and a statement of all investments on hand and changes in investments since the filing of his last account. Provided, however, that guardians, committees and trustees under continuing trusts, after their first accounting, shall render their accounts thereafter bi-annually, or at shorter intervals if the court shall require it. Such settlements, when approved and confirmed by the court, shall be recorded and indexed by the clerk, and the original and the vouchers carefully kept by him in his office. An account shall be rendered by the fiduciary at any other time upon order of the court upon its own motion or that of any person interested in the trust, for good cause shown on affi-

davit. At the expiration of his trust such fiduciary must fully account for and pay over the trust estate to the person or persons entitled thereto. Every such account shall list all unpaid creditors whose claims have been allowed and all creditors whose claims have been disallowed. No account of a fiduciary except of corporate fiduciaries under the supervision of State or Federal banking authorities shall be approved until there are exhibited to the court, for its examination, the security or securities shown in said account as being in the hands of the fiduciary, or the certificate of a bank having possession thereof or in which they have been deposited for safe-keeping, and a certified bank statement showing the funds to the credit of the trust.

*Penalty for Failure to Account.* If a fiduciary neglects or refuses to file an inventory or account when due according to law, or when ordered by the court, the court shall notify the fiduciary of his delinquency and fix a date when such inventory or account must be filed, and any fiduciary failing, without good cause, therefor, to file his inventory or account as required by said notice shall be fined by the court for each day he so neglects or refuses after the date fixed in said notice, the sum of Ten ($10.00) Dollars, to be collected by rule or other process. Unless there is pending in the circuit court a suit to settle the estate such neglect or refusal shall be grounds for removal by the court. If the fiduciary fails to file such account within thirty days after the date fixed in said notice, no allowance shall be made for his services unless the court enters upon its minutes an order that such delay was justified.

*Duties of Clerk and Judge.* It shall be the duty of the clerk to report in writing to the judge once each month the names and addresses of all fiduciaries who have during the previous calendar month become delinquent in filing an inventory or settlement. The judge shall notify by mail such delinquent fiduciaries and shall warn them of the penalties

provided by law. If the clerk shall fail to repjort such delinquents it shall be the duty of the judge to secure a list of same from the court records. There shall be taxed as costs in each delinquent case a fee of Twenty-Five ($.25) Cents for the preparation of said list and the mailing of said notice, to be divided between the clerk and the judge. If the list of said delinquents is secured by the judge he shall be entitled to all of said fee. If the judge shall fail to mail such notices it shall be the duty of the clerk to do so and he shall be entitled to all of said fee.

15. That Section 1067 of Carroll's Kentucky Statutes, 1936 Edition, be repealed, amended and reenacted so as to read as follows:

Section 1067. *Settlements Filed by Clerk; Exceptions; Vouchers, New Evidence.* The clerk shall endorse on the report the time of filing the same and it shall lay over not less than ten days until the first day of the next term of court, to be known as the date of hearing, during which, or at which, exceptions may be filed by any person interested. If no exceptions are filed the report, if made according to law, shall be approved and recorded. If exceptions are filed other evidence besides that reported may be heard, and the court shall, upon the whole case, reject, confirm, alter or amend the report, and if confirmed, order it to be recorded. The vouchers accompanying the report shall not be recorded, but must be carefully kept on file with the report in the clerk's office. Any new evidence given in court must be reduced to writing and filed with the report. Settlements so made and recorded shall be prima facie evidence between the parties interested.

16. *Notice of Filing Settlement.* Not less than ten days prior to the date of hearing, the clerk shall cause notice of the filing of a settlement to be published in a newspaper of general circulation in the county, stating the name of the fiduciary, the trust, the nature of the account and the date of

hearing, with a statement that exceptions must be filed before that time. The actual cost of such notice, or the proportionate part theerof, if more than one settlement, shall be taxed as costs. Provided, however, that with the court's approval the fiduciary may, in lieu of such publication, send a written notice thereof to all unpaid creditors and distrbutees, which notice shall be mailed at least ten days before said date of hearing. The fiduciary in such cases shall file his affidavit that such notice has been mailed.

17. That Section 3847 of Carroll's Kentucky Statutes, 1936 Edition, be amended so as to permit the filing of a suit against a personal representative after five months, so that said section, as amended, shall read as follows:

Section 3847. *Action Against; When May Be Commenced.* Five months must run after the date of the qualification of the first personal representative of a decedent's estate, before an action shall be commenced against any executor or administrator thereof except against an executor de son tort. Any action brought in violation of this action shall be dismissed with costs.

18. That Section 2087 of Carroll's Kentucky Statutes, 1936 Edition, be repealed, amended and reenacted so that the period of time during which debts remain a lien on real estate will be reduced from twelve months to six months, so that said section, as reenacted shall read as follows:

Section 2087. *Alienation before Suit Vests Purchaser with Title; Liability of Heir.* When the heir or devisee shall alien, before suit brought, the estate descended or devised, he shall be liable for the value thereof, with legal interest from the time of alienation, to the creditors of the descendant or testator; but the estate so alienated shall not be liable to the creditors in the hands of a bona fide purchaser for valuable consideration, unless action is instituted within six months after the estate is devised or descended to subject the same.

19. That Section 3860 of Carroll's Kentucky Statutes, 1936 Edition, be repealed, amended and reenacted so as to permit the distribution of estates after six months instead of nine months, so that said section, as reenacted, shall read as follows:

Section 3860. *Distribution of Estate.* A personal representative may distribute the estate of a decedent six months after qualification.

21. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section eight of this act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 25.120, and thereafter be treated as an amendment to KRS 25.120 rather than an amendment to § 1058 of Carroll's Statutes.

21. If the Kentucky Revised States are enacted at the present session of the General Assembly, section ten of this act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 396.090, and thereafter be treated as an amendment to KRS 396.090 rather than an amendment to § 3868 of Carroll's Statutes.

22. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section eleven of this act shall be treated as repealing KRS 395.200, 395.210 and 396.120, regardless of the date of enactment or taking effect of the Kentucky Revised Statutes.

23. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section twelve of this act shall be treated as repealing KRS 202.150 and subsections (1) and (3) of KRS 387.210, regardless of the date of enactment or taking effect of the Kentucky Revised Statutes but KRS 387.010 shall remain in full force and effect and shall not be treated as affected by this act.

24. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section thirteen of

this act shall be treated as repealing subsections (1), (2) and (4) of KRS 395.180, regardless of the date of enactment or taking effect of the Kentucky Revised Statutes.

25. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section fourteen of this act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 395.250, and thereafter be treated as an amendment to KRS 395.250 rather than an amendment to § 3855 of Carroll's Statutes.

26. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section fifteen of this act shall be treated as repealing KRS 25.990(4), 387.100(3), 387.180(2), and 395.990, regardless of the date of enactment or taking effect of the Kentucky Revised Statutes, and KRS 25.170 shall read as follows:

"The county judge shall make settlements with personal representatives, trustees, assignees, committees, curators and guardians in his county, or appoint a special commissioner to make such settlements."

27. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section sixteen of this act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 25.200, and shall thereafter be treated as an amendment to KRS 25.200 rather than an amendment to § 1067 of Carroll's Statutes, and KRS 25.190 shall remain in full force and effect and shall not be treated as affected by this act.

28. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section eighteen of this act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 395.270, and thereafter be treated as an amendment to KRS 395.270 rather than an amendment to § 3847 of Carroll's Statutes.

29. If the Kentucky Revised Statutes are enacted at the

present session of the General Assembly, section nineteen of this act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 396.110, and thereafter be treated as an amendment to KRS 396.110 rather than an amendment to §2087 of Carroll's Statutes.

30. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section twenty of this act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 395.190, and thereafter be treated as an amendment to KRS 395.190 rather than an amendment to § 3860 of Carroll's Statutes.

Said Substitute was then adopted.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same having been engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| W. T. Beard | Bert Hall | J. Milton Mefford |
| Robert E. Beatty | E. R. Hilton | D. J. Moore |
| Douglas T. Bolling | Clyde S. Howard | C. E. Montgomery |
| T. Fowler Combs | Chas. O. Humston | F. E. Morancy |
| M. A. Cornett | W. H. Hunt | E. R. Morlidge |
| John Henry Cox | John S. Juett | Robert Nicholas |
| Rev. W. W. Crouch | A. L. Love | B. W. Porter |
| Guthrie F. Crowe | Harry K. Lowman | Kleber F. Price |
| T. P. Fitzpatrick | Hugh D. Lyon | James E. Quill |
| W. W. Freeman | H. McCartney | Dr. J. J. Rice |
| Joseph J. Grace | Dr. Wm. C. Mann | Wade H. Riley |

| | | | |
|---|---|---|---|
| Dr. M. M. Robinson | J. Claude Stacy | H. A. Ward | |
| Dr. K. N. Salyer | R. C. Stephenson | Henry Ward | |
| Carl Scheben | C. W. Taylor | H. L. Waterfield | |
| Leon J. Shaikun | Egbert Taylor | E. Reed Wilson | |
| Charles L. Spilman | Rev. H. Tinsley | | |
| James D. Stacey | S. J. Wagner | | —49 |

Those who voted in the negative were—

| | | | |
|---|---|---|---|
| Forest C. Easley | Coy Nevitt | C. R. Walden | |
| Fuller Harding | Erna E. Tyra | | —5 |

Resolved that the title thereof be amended.

Mr. Quill moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled.

H. B. 200. An Act applying to teachers in the Public School System, and providing an allowance of seven days sick leave per school year.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Every regularly employed teacher in the Public School System of the Commonwealth of Kentucky, who has a contract to teach for one entire school year, shall be entitled to annual sick leave not exceeding seven (7) days per term, for which seven days no deduction shall be taken from the salary to be paid such teacher according to contract schedule.

Mr. Simpson offered the following amendments to said bill, viz.:

1. Amend H. B. 200 on line 5 after the word "schedule" strike out the period and add a comma and insert the following: "provided said teacher presents a certificate from a reputable physician or other evidence of sickness satisfactory to the Board of Health."

2. Amend H. B. 200 on page 1, section 1 on line 4 strike out the entire line and insert in lieu thereof the following:

"(7) days per school year, for which seven days no deduction shall be taken."

Said amendments were each agreed to.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length having been dispensed with and said bill having been engrossed, said bill was read the third time by its title only and passed.

The yeas and nays having been taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| W. T. Beard | Guthrie F. Crowe | W. H. Hunt |
| Robert E. Beatty | Forest C. Easley | John S. Juett |
| Douglas T. Bolling | W. W. Freeman | W. A. Lamkin |
| Sherman E. Carter | Joseph J. Grace | A. L. Love |
| T. Fowler Combs | Bert Hall | William Lovett |
| M. A. Cornett | E. R. Hilton | Harry K. Lowman |
| John Henry Cox | Clyde S. Howard | Hugh D. Lyon |
| Rev. W. W. Crouch | Chas. O. Humston | H. McCartney |

| | | |
|---|---|---|
| Dr. Wm. C. Mann | James E. Quill | Thomas M. Swope |
| J. Milton Mefford | Dr. J. J. Rice | C. W. Taylor |
| D. J. Moore | Wade H. Riley | Egbert Taylor |
| C. E. Montgomery | Dr. K. N. Salyer | Rev. H. Tinsley |
| F. E. Morancy | Carl Scheben | Erna E. Tyra |
| E. R. Morlidge | Leon J. Shaikun | S. J. Wagner |
| C. Sid Nabb | Charles L. Spilman | C. R. Walden |
| Robert Nicholas | James D. Stacey | Henry Ward |
| B. W. Porter | J. Claude Stacy | H. L. Waterfield |
| Kleber F. Price | R. C. Stephenson | E. Reed Wilson |

—54

There voted in the negative—

Coy Nevitt —1

Resolved that the title thereof be as aforesaid.

Mr. Cox moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Beard of the Committee on Enrollment reported that they had examined and found to be correctly enrolled, bills of the following titles, viz.:

H. B. 84. An Act relating to drainage districts.

H. B. 99. An Act pertaining to trial commissioners to be appointed by county judges.

Thereupon all other business was suspended, said bills were read at length and compared in open session and found to be correctly enrolled, and thereupon the Speaker, in open session and in the presence of the House, affixed his signature thereto.

Ordered that the Enrolling Clerk of this House deliver said bills to the Senate.

After a time the Enrolling Clerk aforesaid delivered the original and enrolled copies of said bills duly signed by the President of the Senate into the possession of the Chief Clerk of this House.

Ordered that the Chief Clerk aforesaid deliver said bills to the Governor.

After a time the Chief Clerk reported that he had discharged that duty.

By order of the Speaker and without objection, today's session was extended indefinitely.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 291. An Act to repeal, amend and reenact section 965-21, Carroll's Kentucky Statutes, Baldwin's 1936 Revision.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Section 965-21, Carroll's Kentucky Statutes Baldwin's 1936 Revision, be and the same is hereby repealed, amended and reenacted, so that when amended and reenacted said sction shall read as follows:

ROWAN COUNTY, at Morehead, second Monday in March, eighteen juridical days; third Monday in May, twelve juridical days; third Monday in November, eighteen juridical days.

MENIFEE COUNTY, at Frenchburg, first Monday in April, twelve juridical days; first Monday in June, twelve

juridical days; second Monday in December, twelve juridical days.

BATH COUNTY, at Owingsville, fourth Monday in February, twelve juridical days; first Monday in May, twelve juridical days; fourth Monday in October, eighteen juridical days.

MONTGOMERY COUNTY, at Mt. Sterling, first Monday in February, eighteen juridical days; third Monday in April, twelve juridical days; third Monday in September, twenty-four juridical days.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of subsection (21) of KRS 23.050, and shall thereafter be treated as an amendment to subsection (21) of KRS 23.050 rather than an amendment to § 965-21 of Carroll's Statutes.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| Robert E. Barry | Guthrie F. Crowe | Clyde S. Howard |
| Robert E. Beatty | Forest C. Easley | Chas. O. Humston |
| Sherman E. Carter | T. P. Fitzpatrick | W. H. Hunt |
| T. Fowler Combs | W. W. Freeman | John S. Juett |
| M. A. Cornett | Joseph J. Grace | W. A. Lamkin |
| John Henry Cox | Bert Hall | A. L. Love |
| Rev. W. W. Crouch | E. R. Hilton | William Lovett |

| | | |
|---|---|---|
| Hugh D. Lyon | H. C. Patterson | R. C. Stephenson |
| H. McCartney | B. W. Porter | Thomas M. Swope |
| Ed. Marcum | Kleber F. Price | C. W. Taylor |
| J. Milton Mefford | James E. Quill | Egbert Taylor |
| D. J. Moore | Dr. J. J. Rice | Rev. H. Tinsley |
| L. D. Moore | Wade H. Riley | Erna E. Tyra |
| C. E. Montgomery | Dr. K. N. Salyer | S. J. Wagner |
| F. E. Morancy | Carl Scheben | Harry Walters |
| E. R. Morlidge | Leon J. Shaikun | Henry Ward |
| C. Sid Nabb | Charles L. Spilman | H. L. Waterfield |
| Coy Nevitt | James D. Stacey | E. Reed Wilson |
| Robert Nicholas | J. Claude Stacy | —56 |

Resolved that the title thereof be as aforesaid.

Mr. J. Claude Stacey moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 323. An Act authorizing the creation of a County Veterans' Service Officer; prescribing the method of appointment; defining duties, and method of payment of salary.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The Fiscal Court of any County in the Commonwealth of Kentucky may create the position of Veterans' Service Officer and elect, employ or appoint a veteran who was engaged in a war of the United States to hold said office

for a term of two years. Such County Veterans' Service Officer shall advise with all citizens, residents of the County, who were at any time members of the military or naval services of the United States relative to any complaint made or problem submitted to him by them; prepare in proper form, present, and prosecute the claims of disabled ex-service men and women and their dependents with the United States Veterans' Administration and other federal or state agencies; secure and expedite action on said claims; keep in contact with the United States Veterans' Administration and the Kentucky Disabled Ex-Service Men's Board so that the status of any claim may be known at any time; continue to survey the County to make certain that no disabled veteran or his dependents are neglected; and perform such other duties as the Fiscal Court may direct.

Section 2. The compensation or salary of said County Veterans' Service Officer shall be fixed by the Fiscal Court of said county, and shall be payable out of the County levy in said County. The Fiscal Court may provide such County Veterans' Service Officer with clerical assistance and such other needs as will enable him to adequately perform his duties.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| Robert E. Barry | Douglas T. Bolling | T. Fowler Combs |
| W. T. Beard | Gus A. Brooks | M. A. Cornett |
| Robert E. Beatty | Sherman E. Carter | Rev. W. W. Crouch |

| | | |
|---|---|---|
| Guthrie F. Crowe | J. Milton Mefford | Clyde Smith |
| Forest C. Easley | D. J. Moore | Otto Smither |
| T. P. Fitzpatrick | C. E. Montgomery | Charles L. Spilman |
| W. W. Freeman | F. E. Morancy | James D. Stacey |
| Joseph J. Grace | E. R. Morlidge | J. Claude Stacy |
| E. R. Hilton | C. Sid Nabb | R. C. Stephenson |
| Chas. O. Humston | Coy Nevitt | Thomas M. Swope |
| W. H. Hunt | Robert Nicholas | C. W. Taylor |
| Joe B. Jarboe, Jr. | H. C. Patterson | Egbert Taylor |
| John S. Juett | B. W. Porter | Roy L. Taylor |
| W. A. Lamkin | Kleber F. Price | Rev. H. Tinsley |
| A. L. Love | James E. Quill | S. J. Wagner |
| William Lovett | Dr. J. J. Rice | Harry Walters |
| Hugh D. Lyon | Wade H. Riley | Henry Ward |
| H. McCartney | Dr. K. N. Salyer | H. L. Waterfield |
| Norris McPherson | Carl Scheben | E. Reed Wilson |
| Ed. Marcum | Leon J. Shaikun | —59 |

Resolved that the title thereof be as aforesaid.

Mr. Roy Taylor moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

S. B. 74. An Act relating to the conversion and wrongful use of water, electricity and gas, artificial, natural or mixed, the interference with appliances used in the transportation and distribution of same, and the possession of devices used or intended to be used to accomplish conversion or wrongful use of same.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Any person who, without the consent of a person engaged in the manufacture or distribution of water, electricity or gas, artificial, natural or mixed, unlawfully converts to his own use from any wire or pipes of such person any water, electric current or gas, or who prevents such water, electric current or gas, or any part thereof, from passing through any meter provided for measuring it by such person, or who in any manner prevents such meter from correctly measuring the water, electric current or gas passing through it, or aids in any manner in the unlawful conversion to his use or the use of another any portion of such water, electric current or gas, shall be fined not less than fifty dollars nor more than Five Hundred Dollars, or imprisoned for not less than three months nor more than twelve months, or both so fined and imprisoned.

§ 2. Any person who unlawfully and maliciously destroys, injures or otherwise interferes with any meter, meter lock or seal, pipe, conduit, wire, line, pole, lamp or other apparatus belonging to any person engaged in manufacturing, distributing or selling water, electricity or gas, artificial, natural or mixed, shall be fined not less than fifty dollars nor more than five hundred dollars, or imprisoned for not less than ten days nor more than one year, or both so fined and imprisoned.

§ 3. Any person who has in his possession any machine, appliance or contrivance, of any character, used or intended to be used to prevent a meter from correctly registering the water, electric current or gas passing through the meter or for diverting the water, electric current or gas that should pass through the meter, shall be fined not less than fifty dollars nor more than five hundred dollars, or imprisoned for not less than three months nor more than twelve months, or both so fined and imprisoned. The possession of such a machine,

appliance or contrivance shall be prima facie evidence of intent to violate and of the violation of this section, and any such machine, appliance or contrivance found on any premises or attached to a meter or wires or pipes through which water, electric current or gas is distributed shall for the purposes of this section be deemed to be in the possession of the user of the water, electric current or gas at or upon the premises where so found.

§ 4. Any person who knowingly accepts and receives the use and benefit of any water, electric current or gas diverted in violation of section one of this Act shall be fined not less than fifty dollars nor more than five hundred dollars, or imprisoned in the county jail for not less than three months nor more than one year, or both so fined and imprisoned.

§ 5. An indictment shall be valid which charges any or all of the acts denounced in this Act, in one count, and all of said acts may be charged and embraced in a single count in an indictment.

§ 6. Sections 1252a-1 to 1252a-5, inclusive, and 1262a-1 to 1262a-5, inclusive, of Carroll's Kentucky Statutes, 1936 edition, are repealed.

§ 7. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, this Act shall be treated as repealing KRS 433.520 to 433.610, regardless of the date of enactment or taking effect of the Kentucky Revised Statutes.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| W. T. Beard | John S. Juett | James E. Quill |
| Robert E. Beatty | W. A. Lamkin | Dr. J. J. Rice |
| Douglas T. Bolling | A. L. Love | Wade H. Riley |
| H. M. Brock, Jr. | Harry K. Lowman | Dr. K. N. Salyer |
| Gus A. Brooks | Hugh D. Lyon | Carl Scheben |
| Sherman E. Carter | H. McCartney | Leon J. Shaikun |
| C. L. Clayton | Norris McPherson | Otto Smither |
| T. Fowler Combs | Ed. Marcum | Charles L. Spilman |
| Oris Cooper | J. Milton Mefford | James D. Stacey |
| M. A. Cornett | L. D. Moore | R. C. Stephenson |
| Rev. W. W. Crouch | C. E. Montgomery | Thomas M. Swope |
| Guthrie F. Crowe | F. E. Morancy | C. W. Taylor |
| Forest C. Easley | E. R. Morlidge | Egbert Taylor |
| T. P. Fitzpatrick | C. Sid Nabb | Roy L. Taylor |
| W. W. Freeman | Coy Nevitt | Rev. H. Tinsley |
| Joseph J. Grace | Robert Nicholas | S. J. Wagner |
| E. R. Hilton | H. C. Patterson | Henry Ward |
| Chas. O. Humston | B. W. Porter | E. Reed Wilson |
| W. H. Hunt | Kleber F. Price | —56 |

Resolved that the title thereof be as aforesaid.

Mr. Mefford moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 339. An Act relating to taxation of insurance companies.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

*Section 1.* Section 4229 of Baldwin's 1938 Supplement to Carroll's Kentucky Statutes is amended to read as follows:

Every stock insurance company, other than life, doing business in this state shall, on or before the first day of March of each year, return to the Director of the Division of Insurance a statement under oath of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, on property or risks in this state during the preceding calendar year or since the last returns were made, including amounts received for reinsurance on Kentucky risks from unauthorized companies, and shall give the name and location of, and the amount of premiums received by each agent, whether designated as premium or otherwise, and the losses paid, and shall at the same time pay into the State Treasury a tax of two dollars upon each one hundred dollars of such amounts paid to the company, less amounts returned on cancelled policies and policies not taken.

*Section 2.* Section 762b-5 of Baldwin's 1938 Supplement to Carroll's Kentucky Statutes is amended to read as follows:

Every stock fire insurance company, other than life, doing business in this state shall pay to the Director of the Division of Insurance on or before the first day of March of each year, for the purpose of defraying the expenses authorized by Section 762b-6 to 762b-33 of Carroll's Statutes, one-half of one percent of all amounts paid to the company or its representative, whether such payments are designated as premiums or otherwise, for insurance or services incident thereto upon all property or other risks or hazards in this state during the previous calendar year. In computing such amounts there shall be deducted amounts returned on policies cancelled or not taken. All amounts so collected shall be paid into the State Treasury.

*Section 3.* Section 743a-23 of Carroll's Kentucky Statutes is amended to read as follows:

All mutual companies other than life doing business under this law shall pay into the State Treasury on or before the first day of March in each year, a tax of two per cent of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto including amounts paid for membership or policy dues or fees, on property or risks in this State during the preceding calendar year, including amounts received for reinsurance on Kentucky risks from unauthorized companies and shall give the name and location of and the amounts received by each agent whether designated as premiums or otherwise, and the losses paid.

In addition to the foregoing tax mutual fire companies shall pay an annual tax as prescribed for stock fire companies by Section 2 of this Act.

In computing premiums upon which tax is to be paid there shall be deducted, in both direct and reinsurance business, return premiums on cancelled policies and policies not taken, and dividends paid or credited to policyholders.

The provisions of this section shall not apply to domestic mutual, cooperative or assessment fire insurance companies.

*Section 4.* The legislative body of each city which is authorized to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance shall file with the Director of the Division of Insurance a copy of all ordinances and amendments thereto which impose any such license fee or tax.

Any license fee or tax imposed by a city upon any insurance company shall be based upon a percentage of the premiums received by the insurance company for insurance on persons residing or property located within the corporate limits of the city.

A life insurance company doing business within the corporate limits of a city shall be subject to the city license fee or tax only on premiums received on or by reason of new policies or new contracts of insurance written during the taxable year.

*Section 5.* If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of 136.340 and shall thereafter be treated as an amendment to KRS 136.340 rather than amendment to Section 4229 of Carroll's Statutes.

*Section 6.* If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section two of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 136.360 and shall thereafter be treated as an amendment to KRS 136.360 rather than an amendment to section 762b-5 of Carroll's Statutes, and the numbers "KRS 227.010 to 227.180 and 298.-240 to 298.300" shall be substituted for "Sections 762b-6–762b-33 of Carroll's Statutes" in section two of this Act.

*Section 7.* If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section three of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 136.350 and shall thereafter be treated as an amendment to KRS 136.350 rather than an amendment to section 743a-23 of Carroll's Statutes.

Mr. Lamkin offered the following amendments to said bill, viz.:

Amend H. B. 339 of page 3, section 3, line 20 by striking the comma after the word "mutual" and inserting in lieu thereof the following: "companies, or to".

Said amendments were each agreed to.

Amend H. B. 339 on page 3, section 4, line 9 by striking the period after the word "city" and inserting a comma in lieu thereof and adding the words "but shall be not less than five dollars a year."

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| W. T. Beard | W. H. Hunt | Carl Scheben |
| Robert E. Beatty | W. A. Lamkin | Leon J. Shaikun |
| Douglas T. Bolling | A. L. Love | Charles L. Spilman |
| Gus A. Brooks | Harry K. Lowman | James D. Stacey |
| Sherman E. Carter | Hugh D. Lyon | J. Claude Stacy |
| T. Fowler Combs | H. McCartney | R. C. Stephenson |
| M. A. Cornett | Norris McPherson | Thomas M. Swope |
| Rev. W. W. Crouch | Ed. Marcum | C. W. Taylor |
| Guthrie F. Crowe | L. D. Moore | Egbert Taylor |
| Forest C. Easley | C. E. Montgomery | Roy L. Taylor |
| T. P. Fitzpatrick | F. E. Morancy | Rev. H. Tinsley |
| W. W. Freeman | E. R. Morlidge | S. J. Wagner |
| Joseph J. Grace | Robert Nicholas | Harry Walters |
| Bert Hall | Paul Pelfrey | Henry Ward |
| Fuller Harding | B. W. Porter | H. L. Waterfield |
| E. R. Hilton | Kleber F. Price | E. Reed Wilson |
| Clyde S. Howard | Dr. J. J. Rice | |
| Chas. O. Humston | Dr. K. N. Salyer | —52 |

Those who voted in the negative were—

| | | |
|---|---|---|
| Oris Cooper | Coy Nevitt | —2 |

Resolved that the title thereof be as aforesaid.

Mr. Lamkin moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 220. An Act amending Section 4077 Carroll's Kentucky Statutes, Baldwin's 1938 Supplement.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 4077, Carroll's Kentucky Statutes, Baldwin's 1938 Supplement, is hereby amended and re-enacted so that as re-enacted it shall read as follows:

"Section 4077: Assessment of Public Service Companies and Others:

(1) (a) Every railway company, sleeping car company, chair car company, dining car company, gas company, water company, ferry company, bridge company, street railway company, interurban electric railroad company, express company, electric light company, electric power company, telephone company, telegraph company, bus line company, common carrier trucking company, air transport company, pipe line company, and every other like company or business performing any public service, shall, in addition to the other taxes imposed on it by law, annually pay a tax on its franchise to the State and a local tax thereon to the county, incorporated city, town and taxing district wherein its franchise may be exercised.

(b) The property of such taxpayers shall be classified as operating tangible, franchise, non-operating tangible and non-operating intangible.

(c) Non-operating intangibles within the taxing jurisdiction of the Commonwealth shall be taxable for State purposes only at the same rate as the intangible property of other taxpayers not performing public services, and tangible property whether operating or non-operating shall be subject to State and local taxes at the same rate as the tangible property of other taxpayers not performing public services.

(d) The Department of Revenue shall have sole power to value and assess all of the property, including the franchise, of every corporation, company, association, partnership, or person performing any public service, including those enumerated above and all others to whom this section may apply, whether or not such operating or non-operating tangible or non-operating intangible, or franchise values have heretofore been assessed by said Department, and shall, except as provided in subsection (2) below, apportion such assessment of franchise as provided by Section 4081 of the Statutes and shall certify tangible property to the counties, cities, towns and taxing districts where said property is situated. Provided, however, that in the case of a taxpayer whose business is predominantly non-franchise and the franchise or public service business in which he is engaged is merely incidental to his principal business, the Department shall in the exercise of its judgment and discretion, determine from evidence which it may have or obtain, what portion of the capital and property is devoted to the public service business subject to assessment by the Department under this section and shall require the remainder of the property not so engaged to be assessed by the local taxing authorities.

(2) (a) The Department of Revenue shall likewise have sole power to value and assess all the property within the taxing jurisdiction of this Commonwealth of every refrigerator car company, tank car company, coal car company, and

every like car company and may, in determining the proportion of the value of such property within the taxing jurisdiction of Kentucky, take into consideration the car mileage made by the cars of such companies. The Department shall not certify the assessment of the franchise or rolling stock of such companies to any county, city, town or taxing district, but shall apportion and certify the operating tangible property, other than rolling stock, to the counties, cities, towns and taxing districts where such property is located. The franchise and rolling stock of such companies shall be taxable for State purposes only at the rate of one dollar and fifty cents ($1.50) upon each one hundred dollars ($100.00) of value, and shall not be subject to taxation by a county, city, town, or other taxing district.

(b) The property of taxpayers within the meaning of paragraph (b) of this subsection shall likewise be classified as operating tangible, franchise, non-operating tangible and non-operating intangible. The non-operating intangible property of the companies within the meaning of this subsection which are within the taxing jurisdiction of the Commonwealth shall be taxable for State purposes only at the same rate as the intangible property of non-franchise taxpayers.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, then, upon the taking effect of the Kentucky Revised Statutes, paragraph (a) of subsection (1) of section one of this Act shall be substituted for subsection (1) of KRS 136.120; paragraphs (b) and (c) of subsection (1) of section one of this Act shall be substituted for subsection (3) of KRS 136.120; paragraph (d) of subsection (1) of section one of this Act shall be substituted in place of subsection (4) of KRS 136.120; subsection (2) of section one of this Act shall become subsection (5) of KRS 136.120; this Act shall thereafter be treated as amending KRS 136.120 rather than § 4077 of Carroll's Statutes, and the number "KRS 136.170" shall be substituted for "Section

4081 of the Statutes'' in paragraph (d) of subsection (1) of section one of this Act.

Mr. Shaikun offered the following amendment to said bill, viz.:

Amend H. B. 220 on page 2, section 2, subsection b line 60 by striking out the letter ''(b)'' and inserting in lieu thereof the letter ''(a)''

Said amendment was agreed to.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by it title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| W. T. Beard | Bert Hall | E. R. Morlidge |
| Robert E. Beatty | E. R. Hilton | C. Sid Nabb |
| Rell Bevins | Chas. O. Humston | H. C. Patterson |
| Douglas T. Bolling | W. H. Hunt | Paul Pelfrey |
| Sherman E. Carter | John S. Juett | B. W. Porter |
| T. Fowler Combs | W. A. Lamkin | Kleber F. Price |
| Oris Cooper | Harry K. Lowman | James E. Quill |
| M. A. Cornett | Hugh D. Lyon | Wade H. Riley |
| Guthrie F. Crowe | H. McCartney | Carl Scheben |
| Forest C. Easley | Norris McPherson | Leon J. Shaikun |
| T. P. Fitzpatrick | Ed. Marcum | Charles L. Spilman |
| W. W. Freeman | D. J. Moore | J. Claude Stacy |
| Joseph J. Grace | F. E. Morancy | R. C. Stephenson |

| | | |
|---|---|---|
| Thomas M. Swope | Roy L. Taylor | Henry Ward |
| C. W. Taylor | Rev. H. Tinsley | E. Reed Wilson |
| Egbert Taylor | Harry Walters | —47 |

Those who voted in the negative were—

| | | |
|---|---|---|
| Rev. W. W. Crouch | A. L. Love | H. L. Waterfield |
| Joe B. Jarboe, Jr | | —4 |

Resolved that the title thereof be as aforesaid.

Mr. Shaikun moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 328. An Act relating to pumps and measuring devices dispensing petroleum products.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

1. (a) The term "petroleum products" as used in this Act shall mean gasoline, kerosene, and lubricating oils.

(b) The term "Commissioner" shall mean the Commissioner of Agriculture, Labor and Statistics.

2. The tolerances to be allowed in excess or deficiency on all pumps dispensing gasoline or kerosene shall be the values shown in the following table. Provided, however, that the tolerances on all new measuring pumps dispensing gasoline or kerosene shall be one-half of the values given; and provided further, that such reduced tolerances shall also be

applied to all devices which are being retested after having been found inaccurate and subsequently adjusted or repaired.

| DELIVERY | TOLERANCE |
|---|---|
| *Gallons* | *Cubic Inches* |
| 1 | 3 |
| 2 | 4 |
| 3 | 5 |
| 4 | 6 |
| 5 | 7 |

For each additional gallon, add one cubic inch.

3. The Commissioner or his agents shall test, from time to time, the pumps dispensing gasoline or kerosene and all measuring devices used in dispensing lubricating oils. All pumps found to be giving accurate measure, as defined in Section hereof, may be officially sealed in a way that the adjusting device cannot be altered without breaking the seal. The proprietor of any pump that is found to be measuring inaccurately shall be instructed by the agent of the Commissioner to make immediate adjustments of such pump so that it is accurate. After the adjustments have been made, the device may be officially sealed in the same manner as provided for sealing devices found originally accurate. It shall be unlawful for a pump or measuring device found to be measuring inaccurately to be used for vending until such time as the pump or measuring device has been adjusted to where it gives accurate measure.

It shall be unlawful for any person to break a seal applied by the Commissioner or his agents without first securing the consent of the Commissioner or one of his agents, except where a pump is found to be measuring inaccurately a qualified pump mechanic may be called to adjust pump, in which event the Commissioner shall be notified in writing immediately.

4. This Act does not prohibit cities from enforcing ordinances regulating weights and measures, heretofore or here-

after enacted, not in conflict with this Act or the regulations of the Department, nor from employing city sealers of weights and measures.

5. That any person, firm, or corporation who shall knowingly violate any of the provisions of this Act shall be guilty of a misdemeanor and subject to a fine of not less than Twenty-Five Dollars ($25.00) nor more than Two Hundred Dollars ($200.00) for each offense.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| Robert E. Barry | Joe B. Jarboe, Jr. | Coy Nevitt |
| W. T. Beard | John S. Juett | H. C. Patterson |
| Douglas T. Bolling | W. A. Lamkin | Paul Pelfrey |
| Gus A. Brooks | A. L. Love | B. W. Porter |
| Sherman E. Carter | William Lovett | Kleber F. Price |
| T. Fowler Combs | Harry K. Lowman | James E. Quill |
| Oris Cooper | Hugh D. Lyon | Wade H. Riley |
| M. A. Cornett | H. McCartney | Dr. K. N. Salyer |
| Rev. W. W. Crouch | Norris McPherson | Carl Scheben |
| Guthrie F. Crowe | Ed. Marcum | Leon J. Shaikun |
| Forest C. Easley | J. Milton Mefford | Charles L. Spilman |
| T. P. Fitzpatrick | D. J. Moore | James D. Stacey |
| Joseph J. Grace | L. D. Moore | J. Claude Stacy |
| Bert Hall | C. E. Montgomery | R. C. Stephenson |
| Clyde S. Howard | F. E. Morancy | Thomas M. Swope |
| Chas. O. Humston | E. R. Morlidge | C. W. Taylor |
| W. H. Hunt | C. Sid Nabb | Egbert Taylor |

| | | |
|---|---|---|
| Roy L. Taylor | S. J. Wagner | H. L. Waterfield |
| Rev. H. Tinsley | Harry Walters | E. Reed Wilson |
| Erna E. Tyra | Henry Ward | —59 |

Resolved that the title thereof be as aforesaid.

Mr. McCartney moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 193. An Act fixing limitations on revocations, countermands of payments and stop payment orders relating to the payment of checks or drafts against bank accounts.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. No revocation, countermand or stop-payment order relating to the payment of any check or draft against an account of a depositor in any bank or trust company doing business in this state shall remain in effect for more than six months after the service thereof on the bank, unless the same be renewed, which renewals shall be in writing and which renewals shall be in effect for not more than six months from date of service thereof on the bank or trust company, but such renewals may be made from time to time.

Section 2. No notice affecting a check upon which revocation, countermand or stop-payment order has been made at the time of the taking effect of this act shall be deemed to continue for a period of more than six months thereafter.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| W. T. Beard | William Lovett | Wade H. Riley |
| Robert E. Beatty | Harry K. Lowman | Dr. K. N. Salyer |
| Douglas T. Bolling | H. McCartney | Carl Scheben |
| Gus A. Brooks | Norris McPherson | Leon J. Shaikun |
| T. Fowler Combs | Ed. Marcum | Otto Smither |
| M. A. Cornett | J. Milton Mefford | Charles L. Spilman |
| Rev. W. W. Crouch | D. J. Moore | James D. Stacey |
| Guthrie F. Crowe | C. E. Montgomery | J. Claude Stacy |
| W. W. Freeman | F. E. Morancy | R. C. Stephenson |
| Joseph J. Grace | E. R. Morlidge | C. W. Taylor |
| Bert Hall | C. Sid Nabb | Egbert Taylor |
| E. R. Hilton | Coy Nevitt | Rev. H. Tinsley |
| Clyde S. Howard | Paul Pelfrey | S. J. Wagner |
| Chas. O. Humston | B. W. Porter | Harry Walters |
| W. H. Hunt | Kleber F. Price | Henry Ward |
| John S. Juett | James E. Quill | E. Reed Wilson |
| W. A. Lamkin | Dr. J. J. Rice | —50 |

Those who voted in the negative were—

| | | |
|---|---|---|
| H. M. Brock, Jr. | Sherman E. Carter | —2 |

Resolved that the title thereof be as aforesaid.

Mr. Lamkins moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The hour of three o'clock p. m. having arrived, that being

the hour for the Special Order of the Day, to wit: a bill entitled:

H. B. 285. An Act relating to permits to erect or maintain poles, lines, wires etc. on rights of way.

With amendments thereto as offered by Mr. Henry Ward.

The House took up for consideration said Special Order.

(For bill and amendments as proposed by Mr. Ward see House Journal of today ante.)

The amendments as offered by Mr. Ward were then agreed to.

Mr. Juett offered the following amendment to said bill, viz.:

Amend H. B. 285 on page 2 by creating a new section entitled Section 3, to be inserted on page 2 after line, 6, reading as follows, viz.:

Section 3. This act shall not apply to farmers or breeders of livestock and poultry who desire to erect poles, fences or walls on their own land, and the provision of the act requiring the payment of a fee shall not apply to nonprofit telephone cooperative associations and corporations.

Said amendment was agreed to.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| Robert E. Barry | W. A. Lamkin | Kleber F. Price |
| W. T. Beard | A. L. Love | James E. Quill |
| Robert E. Beatty | William Lovett | Dr. K. N. Salyer |
| Douglas T. Bolling | Harry K. Lowman | Carl Scheben |
| Gus A. Brooks | Hugh D. Lyon | Leon J. Shaikun |
| T. Fowler Combs | H. McCartney | Charles L. Spilman |
| M. A. Cornett | Norris McPherson | James D. Stacey |
| Rev. W. W. Crouch | Ed. Marcum | J. Claude Stacy |
| Guthrie F. Crowe | J. Milton Mefford | R. C. Stephenson |
| T. P. Fitzpatrick | D. J. Moore | Thomas M. Swope |
| W. W. Freeman | L. D. Moore | Egbert Taylor |
| Joseph J. Grace | C. E. Montgomery | Roy L. Taylor |
| Bert Hall | F. E. Morancy | S. J. Wagner |
| Clyde S. Howard | E. R. Morlidge | Harry Walters |
| Chas. O. Humston | C. Sid Nabb | Henry Ward |
| W. H. Hunt | Robert Nicholas | H. L. Waterfield |
| John S. Juett | Paul Pelfrey | E. Reed Wilson |

—51

Those who voted in the negative were—

| | | |
|---|---|---|
| Sherman E. Carter | Coy Nevitt | Erna E. Tyra |
| Oris Cooper | H. C. Patterson | |
| Joe B. Jarboe, Jr. | Wade H. Riley | |

—7

Resolved that the title thereof be as aforesaid.

Mr. Juett moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the following

bills were introduced, ordered printed and referred to the Committee on Rules.

By Mr. Henry Ward.

H. B. 364. An Act relating to public officers and employees.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Subsection (1) of KRS 12.060 is amended to read as follows:

The heads of constitutional and statutory departments, with the approval of the Department of Finance, may establish such subordinate positions as may be necessary and make appointments thereto, within the limitations of their appropriations, and removals therefrom. All appointees to such positions shall be under the supervision, direction and control of the heads of the respective departments and shall perform such duties as the heads of the departments prescribe. The appointment of all employes not otherwise provided for shall be made by the heads of the departments.

§ 2. Necessary travel expenses incurred by state officers and employes in the performance of their duties, either within or without the state, shall be payable out of appropriations to the department or other state agency for which the officer or employe works. The Department of Finance shall make regulations governing the amount and method of payment of travel expenses and may require that out-of-state travel expenses be approved before they are incurred.

§ 3. KRS 43.060 is amended to read as follows:

The Auditor shall make audits of the accounts of the State Treasurer and the Department of Finance as often as he deems proper, but not less than once each year. He shall ascertain, by personal examination of the books, accounts

and papers in the office of the Department of Finance, the money received by it each month, the sources from which received, and the money paid by it into the State Treasury each month. He shall carefully examine into the books, accounts and papers in the office of the State Treasury, and ascertain the amounts of money paid into and out of the State Treasury each month, and shall ascertain the amount of money on hand by counting it and by personal inquiry of the cashier of each bank or depository in which any state money has been placed or deposited. The Auditor shall compare the vouchers and receipts of the Department of Finance and the State Treasurer, and state the accounts of each, and make a thorough investigation of their offices.

§ 4. Subsection (3) of KRS 64.170 is amended to read as follows:

Upon receipt of a statement the Department of Finance shall draw upon the State Treasurer for an amount not exceeding seventy-five percent of the amount of the fees or compensation due to or paid to the jailer for services rendered the preceding month. If the amount so paid is not sufficient to pay the salaries and expenses of the office for the month, the deficit may be made up out of the amount due or paid in in any succeeding month during his term of office; but in no event shall the total amount paid exceed seventy-five percent of the amount theretofore paid to the Department of Finance by the jailer plus seventy-five percent of the amount credited to the jailer by the Department of Finance. If the jailer dies, resigns or is removed from office, any deficit due to him shall be paid to him or his personal representatives, trustees or committee, as the case may be.

§ 5. KRS 57.320 is amended to read as follows:

The following officers and libraries are entitled free of charge to copies of the Kentucky Reports and advance sheets, as they are published: The Governor, each judge of the Court of Appeals, each commissioner of the Court of Appeals, each

circuit judge, the judge of each Federal court for Kentucky, the Librarian of the United States Circuit Court of Appeals at Cincinnati and each county law library, one copy; the Law Library of the University of Kentucky, twelve copies; the Law Library of the University of Louisville, three copies; the Library of Congress, seven copies; and the Kentucky Historical Society, two copies.

§ 6. The Clerk of the Court of Appeals, before entering on the duties of his office, shall execute bond to the Commonwealth. The bond shall be executed before and attested by the Chief Justice of the Court of Appeals, who may approve or reject the sureties offered. If the Chief Justice rejects the bond the Clerk shall, at that term of court, execute at satisfactory bond. The bond of the Clerk shall be entered on the records of the Court of Appeals. A copy of the bond when approved shall be transmitted by the Clerk to the office of the Secretary of State where it shall be recorded and preserved.

§ 7. Subsection (2) of KRS 63.040 is amended to read as follows:

The Senate shall appoint a day for hearing the impeachment. The accused shall be summoned by precept, issued by the Clerk of the Senate, to appear on that day. The precept shall be served in person, or a copy left at his residence with some member of his family over the age of sixteen years, together with a copy of the impeachment.

§ 8. Subsection three of KRS 43.030 is amended to read as follows:

Each clerk appointed by the Auditor shall hold his position for the same term as the Auditor, unless sooner removed by him. No one shall be appointed as clerk unless he has been a citizen and resident of this state for at least two years. Each clerk shall take the constitutional oath of office, and may be required by the Auditor to execute bond with surety. The assistants and clerks of the Auditor except field

auditors shall reside and keep their office at the seat of government.

By Mr. Carter.

H. B. 365. An Act relating to school districts and providing for a board of directors for school subdistricts.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. The county board of education for each county school district in which there is located a public school of not more than eight grades and which district is not already divided into subdistricts shall place each such school in a county school subdistrict. The subdistrict shall be laid off and records kept thereof in the same manner as now provided by law for county school subdistricts. In each such subdistrict there shall be elected a board of directors consisting of three members. Any person other than an officer or employe of the school district residing in such subdistrict and over the age of twenty-one years who is able to read and write the English language shall be eligible to the office of school director.

§ 2. (1) The annual election of school directors shall be held on the second Saturday of April. At the first regular election of directors after the passage of this Act three directors shall be elected to hold office for one, two and three years respectively. The term of each shall be determined by lot. Threafter at each annual election one member shall be elected for a term of three years. When vacancies occur by removal from the district or otherwise the remaining director or directors shall without delay order an election to fill such vacancy, which election shall be held on Saturday. The first election to be held after the passage of this Act shall be called

by the county school superintendent. Thereafter the election shall be called by the school directors.

(2) The nomination of candidates for the office of school director shall be made any time on election day at a caucus called by the school directors at the voting place preceding the opening of the polls.

(3) The ballot to be used at all elections held for the election of members of the board of school directors shall be furnished by the county superintendent of schools and shall be substantially in the following form:

OFFCIAL BALLOT

For member to serve three years

☐ .....

☐ .....

(4) The official ballots shall remain in charge of the judges of the election. One of the judges shall give the voters one and only one ballot, on the back of which the judge shall endorse his initials in such manner that they may be seen when the ballot is properly folded and returned. Upon the receipt of his ballot the voter shall forthwith, without leaving the inclosure in which the election is held, prepare his ballot by writing in the name or names of the candidate or condidates of his choice in the blank space or spaces on the ballot and the ballot shall be so counted. The voter shall fold the ballot so as to conceal the name or names thereon and deposit the ballot in the box without undue delay. No voters shall vote or offer to vote any ballot except the official ballot received from the judges of the election. Such election shall be held at the school house or such place as may be designated by the proper officers in the notice of election.

(5) Any voter who may declare that he cannot read the English language or that by reason of any physical disability is unable to mark his ballot shall, upon request be assisted in marking his ballot by the two judges of the election who shall

mark the ballots as directed by the voter and shall thereafter give no information regarding the same.

(6) Any person who shall electioneer or who shall solicit votes on election day within any polling place or within one hundred feet of any polling place, or who shall interrupt, hinder or oppose any voter while approaching the polling place for the purpose of voting shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not less than twenty-five dollars and not more than one hundred dollars for each offense.

§ 3. (1) Notice of all elections in subdistricts provided by this Act shall be given by the directors at least ten days previous to the day of the election. Such notice shall be posted in at least three of the most public places in the subdistrict, shall specify the place where such election shall be held, the time of opening and closing the polls and the question or questions to be submitted and may be in the following form, to-wit:

NOTICE OF ELECTION

Notice is hereby given, that on Saturday, the ..... day of April, 19....., an election will be held at ..... for the purpose of electing ..... school director ..... for subdistrict No. ..... in ..... county.

The polls will be opened at ..... o'clock .....M., and closed at ..... o'clock ..... M.

Dated this ..... day of ..... 19.....

A. .....B....., President

C. .....D....., Clerk

(2) Should the directors fail or refuse to order any regular or special election, it shall be the duty of the county school superintendent, to order such election within ten days.

(3) Two of the directors ordering an election shall act as judges, and one as clerk. If the directors, or any of them, shall fail to attend an election, or shall refuse to act when

present, and in elections to fill vacancies, the legal voters assembled shall choose such additional members as may be necessary to act as judges and clerk of the election. If the directors or judges shall be of the opinion that on account of the small attendance of voters the public good requires it, or if a majority of the voters present desire it, they shall postpone the election until the next Saturday, at the same time and place. If notice shall not have been given as required, the election shall be held on any Saturday, notice being given as required by law. In case of a tie, the judges shall decide the vote by lot on the day of election.

(4) Within ten days after the election, the judges shall cause the poll book to be delivered to the county school superintendent, with a certificate showing the election of directors and the names of the persons elected; which poll book shall be filed by the county school superintendent, and shall be evidence of the election.

(5) Within ten days after the annual election, the directors shall meet and organize by appointing one of their number president, and another of their number clerk. The clerk shall at once report to the proper treasurer or treasurers the names of the president and clerk so appointed.

(6) The directors shall hold regular meetings at such times as they may designate, and special meetings at the call of the president or any two members. No official business shall be transacted by the directors except at a regular or a special meeting. Two directors shall constitute a quorum for the transaction of business. If the president or clerk be absent from any meeting, or refuse to perform his official duties, a president or clerk pro tempore shall be appointed.

(7) The clerk shall keep in a punctual, orderly and reliable manner, a record of the official acts of the board which shall be signed by the president and the clerk, and submitted to the county school superintendent for his inspection and approval on the first Mondays of April and October, and at such other times as the county school superintendent may

require. On all questions involving the expenditure of money, the yeas and nays shall be taken and entered on the records of the proceedings of the board.

§ 4. The board of directors shall exercise general control over the school property of the subdistricts under the general supervision of the county board of education. The board of directors shall advise freely with the superintendent of the county district on all matters pertaining to the general welfare of the school or schools in the subdistrict.

§ 5. The board of directors of the school district shall nominate a competent and qualified teacher for each teaching position in the school in their subdistrict in which only the first eight grades are taught. The board of education of the county school district shall elect to each teaching position the person nominated by the subdistrict board of directors for that position unless it rejects the nomination for cause. All rejections shall be stated in writing. In the event of the rejection of a person nominated the subdistrict board of directors shall nominate another person for the position and the board of education may reject that nomination for cause.

§ 6. The nomination of teachers shall be made in writing between February 1 and April 1 next preceding the beginning of the school year. If the subdistrict board of directors does not recommend a teacher within that time the county board of education shall elect a teacher upon the recommendation of the county superintendent.

§ 7. After a written recommendation has been filed with the county board of education, the subdistrict board of directors may not withdraw the recommendation except for legal cause or by permission of the county board of education. If the subdistrict board of directors withdraws its recommendations for cause or by permission of the county board of education it shall make another recommendation on or before the next regular meeting of the board.

By Mr. Roy L. Taylor.

H. B. 366. An Act relating to the licensing of carnivals and circuses.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 3 of Chapter 168 of the Acts of the General Assembly of the regular session of 1940 is amended to read as follows:

No person shall engage in the occupation of operating a carnival or circus in Kentucky until such person has paid to the Department of Revenue the fees prescribed in this section and obtained a license from the Department. Before the first showing in Kentucky each person so engaged shall pay the following fees for the calendar year, or fraction thereof:

For each carnival or circus transported and shown in Kentucky on ten trucks or less or four or less baggage or railroad cars, or equivalent thereof—fifty dollars ($50.00);

For each carnival or circus transported and shown on eleven or more trucks and not exceeding twenty-five trucks or on five or more baggage or railroad cars and not to exceed ten baggage or railroad cars, or the equivalent thereof—seventy-five dollars ($75.00);

For each carnival or circus transported and shown on twenty-six or more trucks or eleven or more baggage or railroad cars, or the equivalent thereof—one hundred dollars ($100.00).

Section 2. Section 9 of Chapter 168 of the Acts of the General Assembly of the regular session of 1940 is amended to read as follows:

The license fee required by this Act shall not be credited against the amusement tax carnivals and circuses are required to pay to the state.

Section 3. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky

Revised Statutes, be substituted in place of subsection (1) of KRS 137.020, section two of this Act shall be substituted in place of KRS 137.030, and this Act shall thereafter be treated as amending the Kentucky Revised Statutes rather than Chapter 168 of the Acts of 1940.

By Mr. Roy L. Taylor.

H. B. 367. An Act to repeal and reenact Section 2739g-6, Baldwin's 1936 Edition, Carroll's Kentucky Statutes, relating to manufacturers and dealers; registration of salesmen; and automobiles in transit:

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 2739g-6, Baldwin's 1936 Edition, Carroll's Kentucky Statutes and the whole thereof be repealed and reenacted, so that when repealed and reenacted same shall read as follows, to-wit:—

§ 1. Every dealer in new or used automobiles in this Commonwealth shall be required to register with the Clerk of the County or Counties wherein the principal office or place of business is situated, and any branch office or sub-agent or agency is located, and pay an annual registration fee of twenty-five dollars ($25.00) to the clerk of each county in which the principal office or place of business or agency or sub-agency is located. Upon the payment of the required annual fee, the clerk shall issue to such dealer a certificate of registration and one dealer's plate and 5 additional duplicates thereof. Each dealer desiring dealer's plates in addition to the above provided for, may secure same by the payment of five dollars ($5.00) for each additional plate. The dealer's plates furnished under the provisions herein may be used on passenger automobiles for the purpose of demonstration and any other business purpose by a member of the firm or any

bona fide employee of said firm and for personal use by a member of the firm or the immediate members of the family of a member of the firm. Each dealer when making application for dealer's plates shall file a verified statement with the Clerk, giving the name and address of each member of the firm and each member of the immediate family of the members of the firm who shall be entitled to use any dealer's plate obtained under the provisions of this law. The dealer's plates furnished under the provisions herein may be used on trucks for the purpose of demonstrating trucks for the purpose of sale which demonstration shall include the hauling of a test load of material, supplies or merchandise at the request of the prospective purchaser. Provisions of this section shall not be construed as exempting any dealer from paying the required fee for and registering automobiles or trucks owned by him or his firm and employed for commercial uses not incidental to the conduct of the firm's business.

Every manufacturer of automobiles in this Commonwealth shall be required to register with the clerk of the county or counties wherein the principal office or place of business is situated, and any branch office or sub agent or agency is located, and pay an annual registration fee of twenty-five dollars ($25.00) to the clerk of each county in which the principal office or place of business or agency or sub agency is located. Upon the payment of the required annual fee the clerk shall issue to such manufacturer a certificate of registration and one manufacturer's plate. Each manufacturer registered under the above provisions shall be furnished not exceeding five additional dealer's plates upon the payment of one dollar ($1.00) for each additional plate, and in addition to the above each manufacturer shall be furnished five additional manufacturer's plates upon the payment of three dollars ($3.00) for each plate. Manufacturer's plates in addition to the eleven above provided for, may secure the same by the payment of five dollars ($5.00) for each additional plate. The manufacturer's plates furnished under provisions

herein may be used for the purpose of demonstrating and exhibiting automobiles or trucks by a member of the firm or by a bona fide employee of said firm. It shall be unlawful for any person to use any manufacturer's plate obtained under the provisions of this law for any purposes other than the demonstration or exhibition of automobiles. Provisions of this section shall not be construed as exempting any manufacturer from paying the required fees for and registering automobiles owned by him or his firm and employed in his personal or commercial use or uses other than demonstration or exhibition. Whenever any manufacturer or dealer desires plates for the express purpose of transporting any automobiles not previously licensed as required by law, over the public highways of this or any other Commonwealth from a manufacturer or wholesale dealer in automobiles to his place or places of retail business he shall upon application to the county court clerk be loaned the necessary "In transit" plates upon depositing with the county clerk the sum of one dollar for each plate and paying to the county court clerk a fee therefor of ten cents per plate. The "In transit" plates shall be furnished to the county court clerk for the use of the manufacturers and dealers of his county, and said plates shall have printed thereon the words "In transit" with a distinctive number. The "In transit" plates so furnished and loaned to a manufacturer or dealer shall be used by him only for the purpose of transporting automobiles from the place of manufacture, or from a wholesale dealer or jobber, to his place or places of business, and said "In transit" plates shall not be used by any manufacturer or dealer, or any other person, for the purpose of demonstration or for any commercial activity. The "In transit" plates so furnished and loaned to any manufacturer or dealer as above provided may be returned within fifteen (15) days to the county court clerk and the deposit made therefor shall be returned to the dealer or manufacturer upon the return of said "In transit" plates. Upon the failure of any dealer to so return said "In transit" plates

within the time herein specified, the deposit made therefor shall be forfeited and same remitted by the county court clerk in his next weekly report to the commission, and recovered into the state treasury as other funds for the licensing of automobiles. The county court clerk shall keep a record of the names, addresses, number of plates and the date same is loaned and furnished to any manufacturer or dealer and the date of the return thereof.

§ 2. Any person who violates any of the provisions of this Act shall be fined not less than ten nor more than one hundred dollars for each offense.

§ 3. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 186.070, 186.080, and thereafter be treated as an amendment to KRS 186.070 and 186.080 rather than an amendment to § 2739g-6 of Carroll's Statutes, and section two of this Act shall stand repealed as of the effective date of this Act, and KRS 186.990 shall remain in full force and not be treated as affected by this Act.

By Mr. Rhoads.

H. B. 368. An Act relating to sale, conveyance and incumbrance of the property of married women.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 2129 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

A married woman may sell, convey or encumber any of her lands and chattels real, but such sale, conveyance or incumbrance shall not bar the husband's right to curtesy unless he joins in the instrument of sale, conveyance or incumbrance or releases his right to curtesy by separate instrument.

§ 2. Section 506 of Carroll's Kentucky Statutes, 1936 edition, is repealed.

§ 3. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substitued in place of subsection (1) of KRS 404.030, and thereafter be treated as an amendment to subsection (1) of KRS 404.030 rather than an amendment to § 2129 of Carroll's Statutes.

§ 4. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section two of this Act shall be treated as repealing KRS 382.050, regardless of the date of enactment or taking effect of the Kentucky Revised Statutes.

By Mr. Pelfrey.

H. B. 369. An Act relating to reports of acquisition of real estate to the county tax commissioner.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Any person who, in his own capacity or in any fiduciary or representative capacity, acquires any freehold interest in real estate, by purchase, gift, devise, descent or any other manner, except by adverse possession, shall report the fact of acquisition, together with all the information required by Section 495 of Carroll's Kentucky Statutes, Baldwin's 1936 Edition, to be contained in a deed that conveys an estate equal to or greater than a life estate and is filed with the county clerk, to the county tax commissioner of the county in which the real estate lies, within thirty days after the date of the acquisition, if the person knows, within thirty days after acquisition, that he, either in his own capacity or in any fiduciary or representative capacity, has acquired such real estate.

§ 2. If any person does not know, within thirty days after the date of acquisition, that he, either in his own capacity, or in any fiduciary or representative capacity, has acquired a freehold interest in real estate, he shall, within thirty days after the fact of the acquisition comes to his knowledge, report the fact of acquisition, together with all the information required by section one of this Act, to the county tax commissioner of the county in which the real estate is located.

§ 3. Failure to make the report required by sections one and two shall not in any way affect the validity of the acquisition of the freehold interest in real estate.

§ 4. No person who acquires, with or without his knowledge, in his own capacity or in any fiduciary or representative capacity, any freehold interest in real estate need comply with sections one and two with this Act from fifteen years from the date of actual acquisition.

§ 5. Any person who violates any of the provisions of section one or two of this Act shall be fined not less than twenty-five dollars nor more than fifty dollars.

By Mr. Pelfrey.

H. B. 370. An Act relating to revenue and taxation.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 4114i-15 of Carroll's Kentucky Statutes, 1936 Edition, is amended to read as follows:

(1) The county tax commissioner shall complete the assessment of property by January 1 of each year, and shall make out his tax rolls, showing the total property in each city, the total property in each justice's district, and the total of all property in the county. He shall also, in making out the tax rolls show the totals of property subject to school tax; the property subject to a county school district tax being

entered in red, the property subject to a subdistrict school tax being entered in blue, and the property subject to an independent school district tax being entered in black. He shall verify the correctness of the tax rolls, and by January 1 shall file them, except the intangible portion of the schedule, with the county clerk, who shall file and preserve them. The tangible schedules shall be destroyed after five years.

(2) The county clerk shall test the accuracy of the extensions and additions as shown by the tax rolls of each city and justice's district, and the total, on blanks to be furnished by the department, and shall record the recapitulation in the tax rolls with his official certificate attached thereto. The county clerk shall immediately thereafter, and not later than the second Monday in January, file with the department a certified copy of the recapitulation, showing the assessment of each city, of each justice's district, and the total assessment for the county for each item of property assessed therein. For making and recording this preliminary recapitulation the county clerk shall be allowed ten cents a line for each line across the page, including the last total value.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 133.040, and shall thereafter be treated as an amendment to KRS 133.040 rather than an amendment to § 4114i-15 of Carroll's Kentucky Statutes.

By Mr. Juett.

H. B. 371. An Act relating to motor carriers, repealing all existing laws in conflict therewith, and providing for the substitution of this Act in lieu of Chapter 281, Kentucky Revised Statutes.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Chapter 281 of the Kentucky Revised Statutes is repealed and, in lieu thereof, there is enacted the following, to read and be numbered as follows:

DEFINITIONS AND APPLICATIONS

281.010 (2739j-1; 2739j-42; 2739j-94; 2739L-9; 2739o-1) *Definitions.* As used in this chapter, unless the context requires otherwise:

(1) "Certificate" means a certificate of public convenience and necessity authorized to be issued under KRS 281.090.

(2) "City bus" means any motor vehicle used for the transportation of persons for hire exclusively within the limits of a city or within ten miles of its limits, over a regular route

(3) "Common carrier" means any operator of a motor vehicle for hire in common carriage other than the operator of a taxicab or city bus, except that the operator of a city bus who obtains a certificate under subsection (2) of KRS 281.040 shall thereupon become a common carrier.

(4) "Contract carrier" means any person who, under individual contracts or agreements, engages in the transportation (other than as a common carrier) by motor vehicle of passengers or property for hire.

(5) "Director" means the Director of the Division of Motor Transportation.

(6) "Division" means the Division of Motor Transportation in the Department of Business Regulation.

(7) "Motor Vehicle" means any motor-propelled vehicle used for the transportation of persons or property on the public highways, including any such vehicle operated as a unit in combination with other vehicles, but not including vehicles propelled by electric power obtained from overhead wires, and not including vehicles usually operated over or on rails.

(8) "Operator of a motor vehicle for hire" means any person who owns, controls, operates or manages any motor

vehicle for hire for the transportation of persons or property on any public highway, or any person who engages in the business of leasing motor vehicles for a compensation for the transportation of persons or property upon the public highways, but does not include any person who transports only his own property.

(9) "Permit" means a permit to operate a motor vehicle as a contract carrier authorized to be issued under KRS 281.220.

(10) "Public highway" means any public street, alley, road or highway in this State, whether within or without the corporate limits of any city.

(11) "Taxicab" means any motor vehicle designed or constructed to accommodate or transport passengers, not more than six in number exclusive of the driver, the principal operation of which is confined to the corporate limits and suburban area of cities of this State, and not operating over any definite route, and the destination of which is designated by the passenger or passengers at the time of such transportation.

(12) "Suburban area" means territory wholly within the State of Kentucky which extends not more than one mile beyond the corporate limits of any municipality in this State and one mile additional for each fifty thousand population or major fraction thereof.

(13) "Occasional or casual trips" means the occasional transportation of passengers or the property of others for hire by one who does not regularly engage in the transportation business in this State nor operate under a certificate between fixed termini or over a regular route.

281.020 (2739j-42; 2739j-94) *Exemption of trolley busses, city trucks, school busses and trucks used by cooperatives or to haul agricultural products.* The provisions of this chapter do not apply to:

(1) Motor vehicles used for the transportation of prop-

erty for hire operating exclusively within the limits of a city or within its suburban area.

(2) Motor vehicles used as a school bus and while engaged in the transportation of students, under the supervision and control, and at the direction, of school authorities.

(3) Motor vehicles being used exclusively for the transportation of property belonging to a nonprofit cooperative association or its members where the vehicle is owned or leased exclusively by the association.

(4) Motor vehicles being used exclusively for the transportation of agricultural and dairy products from the farm, market, gin, warehouse, dairy or mill, regardless of the ownership of the vehicle, so long as the title of the goods transported remains in the producer. As used in this subsection, the word "producer" includes a landlord where the relation of landlord and tenant or landlord and cropper is involved, and the phrase "agricultural products" includes fruit, livestock, meats, fertilizer, wood, lumber, cotton, naval stores, products of grove or orchard, poultry and eggs.

(5) Motor vehicles used as a church bus and while engaged in the transportation of persons to and from a church or place of worship or for other religious work under the supervision and control, and at the direction, of church authorities.

(6) Trucks engaged in hauling material and supplies used in the construction of highways.

281.030 (2739j-95; 2739k-1; 2739k-2) *Regulation of interstate commerce.* (1) The provisions of this chapter shall apply to interstate commerce, except in so far as such application is in conflict with any provision of the constitution of the United States or the Acts of Congress.

(2) The director of the Division of Motor Transportation may grant a certificate of convenience and necessity for the transportation of persons or property for compensation in interstate commerce, and may regulate such interstate commerce under the authority of, and in accordance with,

the provisions of any Act of Congress vesting in or delegating to the Director such authority, as an agency of the United States Government. The Director may notify the proper department of the Federal Government of his assent to the requirements and conditions of such Act of Congress in regard to interstate commerce by motor vehicle.

## COMMON CARRIERS; CERTIFICATES, RATES AND SERVICE

281.040 (2739j-42; 2739j-45; 2739j-94) *Common carrier must obtain certificate; carrier of passengers between city and surrounding territory may obtain certificate.* (1) No person shall act as a common carrier without having obtained a certificate of public convenience and necessity from the Division of Motor Transportation.

(2) Any person who owns, controls, operates or manages any city bus between a city and a point or points within ten miles of the limits of the city, and over a regular route or between fixed termini, may apply to the division for a certificate. After the issuance of such a certificate, no operator of a motor vehicle for the transportation of passengers for hire, not holding a certificate, shall operate in competition with the holder of such certificate, over the route or any part of the route covered by the certificate.

281.050 (2739j-46; 2739j-69; 2739j-82) *Application for certificate, fee.* (1) Every application for a certificate shall be made to the Division of Motor Transportation in such form, and shall contain such matters, as the division prescribes, and shall be signed and sworn to by the applicant or, if the applicant is not a natural person, by a person having knowledge of the matters therein set forth and duly designated for that purpose by the applicant. Each application for a certificate to operate a motor vehicle for hire designed primarily for the transportation of persons and having a seating capacity of seven persons or less shall be accompanied by a fee of ten dollars. Every other application for a cer-

tificate shall be accompanied by a fee of twenty-five dollars.

Registration fee for trucks, KRS 47.020, 186.050.

281.060 (2739j-47; 2739j-48) *Hearing on application, notice to interested persons.* (1) Upon the filing of an application for a certificate, accompanied by the fee, the division shall, within a reasonable time, fix the time and place for a hearing on the application. At least ten days before the hearing, the division shall mail written notice of the hearing, and of the right to file a protest in accordance with the requirements of the division, to the applicant, to each common carrier, including steam and electric railway companies, serving any part of the route to be served by the applicant, to the Commissioner of Highways, to the county attorney and the county judge of each county in which the applicant proposes to render service, to any other person who, in the opinion of the director, may be interested in or affected by the issuance of the certificate.

(2) At the time fixed in the notice, or at such time thereafter as the division determines, the division shall hold a public hearing on the application, except as provided in subsection (2) of KRS 281.090. Any person having an interest in the subject matter may, in accordance with the rules prescribed therefor by the division, file a protest to the granting, in whole or in part, of the application, make representations, and introduce evidence in support of the protest.

281.070 (2739j-50; 2739j-51) *Basis for granting or refusing certificate.* In granting or refusing to grant a certificate, the division shall take into consideration the effect that the proposed operation may have upon public transportation business and facilities of every character within the territory sought to be served by the applicant, whether existing transportation service is adequate, the public need for the service the applicant proposes to render, the ability of the applicant efficiently to perform the service, and the probable effect upon the highways and upon the safety of the public using the highways.

281.080 (2739j-76) *Bond, insurance policy or deposit to protect patrons and public and to insure compliance with law must be filed before certificate is issued.* (1) No certificate shall be issued until there has been filed with and accepted by the Director of the Division of Motor Transportation a good and sufficient indemnity bond or insurance policy issued by some surety or insurance company or other insurance carrier authorized to transact such business in this State. The bond or policy shall contain such terms and shall be in such penal sum or maximum amount as the director deems necessary for the reasonable protection of the public and the patrons of the operator of the motor vehicle in the collection of damages for which the operator may be liable by reason of the operation of any motor vehicle for hire, except that the bond or insurance policy required of the operator of a motor vehicle for hire engaged solely in interstate commerce shall not be for the protection of the patrons of the operator.

(2) In addition to the requirements of subsection (1) of this section, no certificate authorizing the transportation of passengers for hire shall be issued until there has been filed with the Director of the Division of Motor Transportation a bond in the penal sum of one thousand dollars payable to the Commonwealth, executed by some surety company authorized to transact such business in this State, and conditioned that the applicant will pay all fees, taxes or penalties that may be due under the provisions of this chapter and will comply faithfully with all lawful decisions, orders, rules, demands and requirements of the Director of the Division of Motor Transportation made under the provisions of this chapter. If the director deems it necessary, he may require that the amount of the bond shall be increased to not more than five thousand dollars.

(3) In lieu of the bond provided for by subsection (2), the applicant for a certificate may deposit with the director a certified check payable to the State Treasurer in an amount to be fixed by the director. The check shall be held by the

director as a guarantee for the payment to the State of any fees or taxes due under this chapter. If the person depositing the check fails to pay any such fees or taxes within fifteen days after they become due, the director may direct the State Treasurer to cash the check and deduct therefrom any fees or taxes due the state, and return any balance to the person who deposited the check, in which event the certificate issued to such person shall be canceled unless he files with the director a new certified check or bond in compliance with this section.

(4) No bond or insurance policy provided for in this section may be canceled or terminated at any time prior to its expiration unless the surety or indemnity company has filed a notice to that effect with the director at least fifteen days prior to the date of the termination or cancellation. This provision shall be deemed to be a part of every such bond or insurance policy and no other provision thereof, and no agreement between the parties thereto, shall invalidate it.

Common-law liability, common carriers may not contract for relief from, Const. 196

Motor vehicle financial responsibility law, Ch. 187

281.090 (2739j-49; 2739j-51) *Granting of certificate.* (1) After the hearing, if the applicant has established to the satisfaction of the division, upon consideration of the matters mentioned in KRS 281.070, that the privilege sought by the applicant is convenient and necesasry in the public interest, and the applicant has complied with the provisions of KRS 281.080, the division may issue to the applicant a certificate declaring that the public convenience and necessity require the operation for which the application was made, or may refuse to issue the certificate, or may issue it for the partial exercise only of the privilege sought, and may attach to the exercise of the rights granted by the certificate such terms and conditions as, in its judgment, the public convenience and interest require. The certificate shall be in a form prescribed by the division.

(2) If no protest against the granting of the certificate is filed with the division prior to the date fixed for the hearing, and the division is satisfied that the privilege sought by the applicant is convenient and necessary in the public interest, the division may grant the certificate without a public hearing.

281.100 (2739j-52) *New application when certificate denied.* When any application for a certificate has been heard and denied, the division shall not entertain another application from the same applicant covering the same or similar routes, schedules or service until the expiration of six months from the date of the denial.

281.110 (2739j-71) *Amendment of certificate transfer.* (1) Applications for amendments to certificates may be made in the same manner as an application for an original certificate, and may be granted in the same manner as provided for an original certificate.

(2) Any certificate owned, held or obtained by any carrier may be sold, assigned, leased, bequeathed or transferred as other personal property upon approval by the Division of Motor Transportation, which may inquire into the responsibility of the person obtaining or seeking to obtain ownership or control of any certificate, and if it finds such person to be irresponsible or unable to render satisfactory and adequate service under said certificate it may enter an order denying the transfer; provided, however, that no certificate may be sold, assigned, or leased, bequeathed or transferred except after a public hearing and after notice as required for other hearings.

281.120 (2739j-72; 2739j-82) *Duration of certificate; renewal; cancellation.* No operating rights under a certificate shall be effective after January 1 of any year unless extended for the subsequent year by the payment to the division of the fees prescribed for original applications. Evidence of the extension of operating rights and a receipt for the fees thereof shall be issued in a form prescribed by the division. It may

refuse to accept extension fees for any certificate only for just cause and may cancel any certificate for any just cause other than those named in KRS 281.130 but only after a hearing, thirty days' notice of which shall be given to the holder of the certificate.

281.130 (2739j-89) *Revocation, suspension or alteration of certificate.* Whenever any common carrier is found to be violating the provisions of this chapter, or any of the rules and regulations prescribed by the division pursuant thereto, or any of the laws of this State touching on such carrier's operation upon the public highways, the division may, upon complaint or upon its own motion, issue its order to the carrier notifying him to appear before the division at a fixed time and place, at which time and place the division shall investigate the violation. If the division is satisfied, after a hearing, that the carrier has violated or refused to observe such laws, rules or regulations, the division may suspend, revoke, alter or amend any certificate issued to such carrier.

Franchises subject to revocation, alteration or amendment, Const. 3

281.140 (2739j-56; 2739j-57) *Rates to be reasonable; service to be adequate.* Every rate demanded or received by any common carrier shall be just and reasonable, and every such carrier shall furnish adequate, efficient, safe and reasonable service.

281.150 (2739j-58) *Filing and public inspection of rate and service scheduled.* Under rules and regulations prescribed by the division, every common carrier shall maintain on file with the division a schedule of the rates, fares, charges and classifications, and a time schedule, if any, of all motor vehicles operated under a certificate, and shall keep open for public inspection at designated offices so much of such schedules as the division deems necessary for public information.

281.160 (2739j-59) *Adherence to schedules; preference; discrimination.* No common carrier shall charge, demand, collect or receive a greater, less or different compensation

for the transportation of persons or property, or for any service in connection therewith, than the rates, fares and charges specified in its tariffs and classifications filed with and approved by the division and in effect at the time; nor shall any common carrier refund or remit any part of the rates, fares or charges so specified, or make or give any unreasonable preference or advantage to any person, or subject any person to any unreasonable prejudice or discrimination.

Discrimination forbidden, Const. 196

Free passes and reduced rates, when forbidden, Const. 197; KRS 276.240

Greater charge for short haul than for long haul forbidden, Const. 218

281.170 (2739j-60) *Changes in rates, how made.* (1) Unless the division otherwise orders, no common carrier shall make any change in any rate that has been duly established under this chapter except after thirty days' notice to the division, stating plainly the changes proposed to be made and the time when the changed rates will go into effect. The carrier shall also give such notice of the proposed change to other interested persons, and in such manner, as the division directs. All proposed changes shall be shown by filing new schedules, or shall be plainly indicated on schedules filed and in force at the time and kept open for public inspection. For good cause shown and under such conditions as the division may prescribe, the division may allow changes in rates, without requiring the thirty days' notice, and the carrier shall immediately indicate all such changes upon his schedules.

(2) Whenever any schedule stating a new rate is filed with it, the division may, upon complaint or upon its own initiative, and upon reasonable notice, enter upon a hearing concerning the lawfulness of the rate. Pending the hearing and decision thereon, the division may suspend the operation of the new rate for a period of not more than six months. If, after the hearing, the division finds any such rate to be

unjust, unreasonable or unjustly discriminatory, or in violation of the law, the division shall determine the just and reasonable rate to be charged and shall fix the same by order.

281.180 (2739j-54; 2739j-61) *Powers of Division of Motor Transportation to regulate rates and service.* (1) The Division of Motor Transportation has authority to fix or approve the rates, fares, charges, classifications, rules and regulations of each common carrier, and to regulate operating schedules so as to insure adequate and convenient transportation service.

(2) If the division, after a hearing held upon reasonable notice upon its own motion or upon complaint, finds any existing rate to be excessive, unreasonable or unjustly discriminatory, or finds the services rendered or facilities employed by any common carrier to be unsafe, inadequate, inconvenient or in violation of law or of the rules and regulations of the division, it may determine the just and reasonable rates to be charged thereafter, or the reasonable, safe, adequate and convenient service to be thereafter furnished, and shall fix the same by order. The division need not fix the same rates as are or may be fixed by other authorities for carriers engaged in other methods of transportation.

281.190 (2739j-5; 2739j-55; *Abandonment or change of route of service; forfeiture of certificate.* (1) Except as provided in subsection (2), no common carrier shall abandon or change any route or service without an order of the division that public convenience and necessity permit such abandonment or change. Applications for any such abandonment or change shall be made in accordance with the requirements of the division, and the procedure on an application for an abandonment or change of route shall be the same as for the issuance of a certificate.

(2) If it becomes necessary on account of the condition of the roads or other emergency, a common carrier may make temporary changes in route, service or schedule, subject to the approval of the Division of Motor Transportation.

(3) If any person holding a certificate over any public highway in this State between fixed termini or over a regular route fails to begin operation under the certificate on said line for a period of sixty days, or abandons operation thereunder, or fails to pay the renewal fees therefor for a period of thirty days after the due date thereof; or fails to keep the required insurance on file and in force, such certificate shall be and become null and void, and an order to that effect shall forthwith be entered on the records of the Division of Motor Transportation.

## CONTRACT CARRIERS, PERMITS, RATES AND SERVICE

281.200 (2739j-63) *Contract carrier must obtain permit.* No person shall act as a contract carrier without having obtained a permit from the Division of Motor Transportation.

281.210 (2739j-64; 2739j-69; 2739j-82) *Application for permit; fee; hearing.* (1) Applications for permits shall be made to the division in the manner and form provided for in the regulations of the division. Each application for a permit to operate a motor vehicle for hire designed primarily for the transportation of persons and having a seating capacity of seven persons or less shall be accompanied by a fee of ten dollars. Every other application for a permit shall be accompanied by a fee of twenty dollars.

(2) The division may, if it deems it advisable, hold a public hearing on the application, in which event the divison shall give written notice thereof, at least ten days prior to the time fixed for the hearing, to all persons who may, in the opinion of the division, be interested in or affected by the issuance of the permit.

Registration fee for trucks, KRS 47.020, 186.050

281.220 (2739j-65; 2739j-76) *Granting of permit; basis.* Upon the filing of a proper application, accompanied by the prescribed fee, and upon compliance by the applicant with

the provisions of KRS 281.080, as made applicable to contract carriers by KRS 281.230, and upon the applicant establishing to the satisfaction of the division that the privilege sought will not endanger the safety of the public, unreasonably impair the efficient public service of any authorized common carrier then adequately serving the same territory, or interfere with the use of the highways by the public or impair the condition or maintenance of the highways, the division may issue to the applicant, in a form prescribed by the division, a permit authorizing the operation for which the application is made.

281.230 (2739j-71; 2739j-72; 2739j-76; 2739j-89) *Filing of bond, insurance policy or deposit; amendment, transfer, duration, renewal, cancellation, revocation, suspension or alteration of permit.* The provisions of KRS 281.080, 281.110 and 281.130 shall apply to contract carriers, except that the bond or insurance policy required by subsection (1) of KRS 281.080 shall not be for the protection of the patrons of a contract carrier. When applied to contract carriers, KRS 281.080, 281.110 and 281.130 shall be read as if "permit" were substituted for "certificate" and "contract carrier" for "common carrier." Each permit shall be renewed and the fees therefor paid annually.

281.240 (2739j-66) *Unfair competition with common carriers; statement of charges and other information to be filed.* (1) No contract carrier shall give or cause any undue or unreasonable advantage or preference to those whom he serves as compared with the patrons of any common carrier, or subject the patrons of any common carrier to any undue or unreasonable discrimination or disadvantage, or by unfair competition destroy or impair the service or business of any common carrier, or the integrity of state regulation of any such service or business. In order that the division may enforce these provisions, each contract carrier shall maintain on file with the division a statement of his charges and of such other matters as the division requires.

(2) "Common carrier," as used in this section, means common carriers as defined in KRS 281.010 and also common carriers by other methods of transportation.

Discrimination forbidden, Const. 196

281.250 (2739j-67; 2739j-68) *Powers of Division of Motor Transportation to regulate rates and business.* (1) Whenever, upon complaint or upon its own motion, and after hearing conducted in accordance with its general orders, the division finds that any rate, fare, charge, classification, rule or practice of any contract carrier causes any violation of KRS 281.240, the division shall prescribe the maximum or minimum, or maximum and minimum, rate, fare or charge thereafter to be charged, and the classification, rule or practice thereafter to be observed by the contract carrier, in such manner as, in its judgment, will remove the violation. The division need not fix the same rates as are or may be fixed by other authorities for carriers engaged in other methods of transportation.

(2) The division may, after such general investigation and hearing as it deems advisable, issue such general and special orders regulating and controlling the business, rates and practices of contract carriers as it deems reasonably necessary to prevent violation of KRS 281.240.

## REGULATIONS AS TO OPERATIONS BY COMMON CARRIERS AND CONTRACT CARRIERS

281.260 (2739j-54) *General regulations as to common carriers; accounts; reports.* The Division of Motor Transportation may, by general order or otherwise, prescribe rules and regulations governing common carriers, and may prescribe a uniform system and classification of accounts to be used, require the filing of annual and other reports, and supervise and regulate common carriers in all other matters in which the public interest is involved.

281.270 (2739j-77) *Nonresident carrier to have agent for service of process.* Any common carrier or contract carrier

who is a nonresident of this State, other than a corporation required to have an agent under KRS 271.090, shall, prior to operating any motor vehicle for hire in this State, appoint a person residing in this State as agent upon whom process may be served, and shall maintain such an agent so long as the carrier operates a motor vehicle for hire in this State. The appointment shall be made by filing in the office of the Division of Motor Transportation a statement giving the name and residence of the agent. If the carrier is an individual, the statement shall be subscribed by him; if the carrier is a partnership or an unincorporated association or company, the statement shall be subscribed by a partner or by an officer. When any change is made in the agent, the carrier shall immediately file with the Division of Motor Transportation a statement of the change, and the former agent shall remain agent for the purpose of service until the statement of appointment of the new agent is filed.

Service of process on nonresident motorists, Ch. 188

281.280 (2739j-37) *Common carriers of passengers to furnish free transportation to director and assistants.* All common carriers of passengers shall furnish to the director and his assistants free transportation over their lines at all times.

Free passes and reduced rates, when forbidden, Const. 197; KRS 276.240

281.290 (2739j-70) *Distinguishing plates for vehicles.* The division shall prescribe and furnish a distinguishing plate or plates, which shall at all times be displayed on each motor vehicle authorized to be operated under a certificate or permit. No person shall transfer such plates from one vehicle to another except by the authority and with the consent of the division.

281.300 (2739j-73; 2739j-74; 2739j-82) *Certification of drivers and chauffeurs.* (1) No operator of a motor vehicle for hire shall permit such vehicle to be operated upon the public highways unless the driver or chauffeur thereof has

obtained, and from time to time has renewed, in accordance with the requirements of the division, a certificate of the division to the effect that the driver or chauffeur has met its requirements with respect to his health, vision, sobriety, intelligence, care, ability and experience. At the time of the original issuance of the certificate, and at the time of each renewal, a fee of two dollars shall be paid to the division. The holder of such a certificate, at all times when operating a motor vehicle for hire shall have the certificate in his possession, and shall wear a badge, to be issued by the division, indicating that he is a certified driver or chauffeur.

(2) The division may, for good cause, upon complaint or upon its own motion, revoke or suspend any such certificate, and the certificate and badge shall thereupon be returned to the division.

Age limit for drivers of busses, KRS 186.600

Drivers' licenses generally, Ch. 186

281.310 (2739j-75) *Working hours of drivers and chauffeurs.* No common carrier or contract carrier shall require or permit any driver or chauffeur operating a motor vehicle for hire under a certificate or permit to remain continuously on duty for a longer period than twelve hours, and when any such driver or chauffeur has been continuously on duty for twelve hours he shall have at least eight consecutive hours off duty. No common carrier or contract carrier shall require or permit any such driver or chauffeur to remain on duty for a longer period than sixteen hours in the aggregate in any twenty-four hour period, and when a driver or chauffeur has been on duty sixteen hours in the aggregate in any twenty-four hour period he shall have at least ten consecutive hours off duty. The periods of release from duty required by this section shall be given at such places and under such circumstances that rest and relaxation from the strain of the duties of the employment may be obtained. No period off duty shall be deemed to break the continuity of service unless it is for at least three consecutive hours and is given at such a place

and under such circumstances that rest and relaxation from the strain of the duties of the employment may be obtained. In case of an unforeseen emergency not resulting from the negligence of the carrier or his agents, servants or employees, the driver or chauffeur may complete his run or tour of duty, if the run or tour of duty, but for the delay caused by the emergency, could reasonably have been completed without a violation of this section. The division may require such reports as it deems necessary for the enforcement of this section.

281.320 (2739j-22) *Overcrowding of passenger vehicles; maximum width.* (1) No common carrier or contract carrier shall permit any motor vehicle operated by him for the transportation of passengers for hire to carry a greater number of passengers than twenty-five per cent over its seating capacity or number specified in the certificate or permit issued by the division, or permit any passenger to ride upon the steps or running board of any such motor vehicle. No common carrier or contract carrier shall permit any passenger to ride on the top of any such motor vehicle unless the top has been designed and equipped with seats constructed for such use, and provided with protecting railing or protective enclosure on all four sides of the top of the vehicle, and unless such use has been authorized by a certificate issued by the division.

(2) No common carrier shall operate, for the transportation of persons for hire, any motor vehicle with an extreme width exceeding ninety-six inches.

Number of passengers in ordinary vehicles, passengers not to interfere with driver, KRS 189.470

Width of truck or trailer not to exceed ninety-six inches, KRS 189.180

281.330 (2739j-23) *Accident reports.* All common carriers and contract carriers of passengers shall give to the division immediate notice in writing, of any accident resulting in loss of life or serious injury.

Duty of operator of any motor vehicle to report accidents, KRS 189.580

281.340 (2739j-33) *Passenger vehicles required to stop at railroad crossings.* The chauffer of every motor vehicle used in the common carriage of passengers for hire shall stop the vehicle before crossing at grade the main track of any railroad or interurban electric railway, except where the crossing as a guarded crossing protected by gates or a flag controlled or operated by an employee of the railroad or interurban company. The stop shall be made at not less than ten feet nor more than thirty feet from the nearest track to be crossed. After making the stop, the chauffer shall look carefully in each direction for approaching cars or trains, and shall not start his vehicle until he has ascertained that no cars or trains are approaching in either direction.

All motor vehicles to stop at railroad crossings on signal. KRS 189.560

281.350 (2739j-25) *Matters to be displayed on passenger vehicles.* All common carriers and contract carriers shall at all times have displayed on each side of every vehicle used in the transportation of passengers, the name and office address of the owner, the number of the vehicle corresponding to the number on the distinguishing plates furnished by the division, and the place of its starting terminal, and shall have the name of the chauffeur posted in a conspicuous place in the vehicle.

281.360. (2739j-26) *Inspection of passenger vehicles.* The director and representatives of the Division of Motor Transportation may, at any time or place, make inspection under the provisions of this chapter that relate to passenger motor vehicles operated by common carriers and contract carriers and shall be provided with appropriate badges for identification. They may enter into and upon any such motor vehicles for the purpose of ascertaining whether or not any provision of this chapter or rule or regulation of the division

relating to such vehicles has been violated. Wilful refusal to stop any such vehicle when ordered to do so by any representative of the division, or to permit the representative to enter into or upon the vehicle for the purpose of inspection, shall be sufficient ground for the revocation or suspension of the certificate or permit of the carrier.

281.370 (2739g-96) *Enforcement; arrest; bail bond.* Any peace officer, including sheriffs and their deputies, constables and their deputies, police officers and marshals of cities or incorporated towns, county police or patrols, and special officers appointed by any agency of the commonwealth of Kentucky for the enforcement of its laws relating to motor vehicles, now existing or hereafter enacted, shall be authorized, and it is hereby made the duty of each of them, to enforce the provisions of this chapter and to make arrests for any violation or violations thereof, and for violations of any other law relating to motor vehicles, without warrant if the offense be committed in his presence, and with warrant or summons if he does not observe the commission of the offense. When in pursuit of an offender for any offense committed within his jurisdiction, any such officer may follow and effect an arrest beyond the limits of his jurisdiction. If the arrest be made without warrant, the accused may elect to be immediately taken before the nearest court having jurisdiction, whereupon it shall be the duty of the officer to so take him. If the accused elect not to be so taken, then it shall be the duty of the officer to require of the accused a bail-bond in a sum of not less than five hundred dollars, conditioned that the accused binds himself to appear in the court of jurisdiction at the time fixed in the bond, not however in any case later than six days from the day of arrest. In case the arrested person fails to appear on the day fixed, the bond shall be forfeited in the manner as is provided for the forfeiture of bonds in other cases. No officer shall be permitted to take a cash bond. The officer making the arrest and taking the bond shall

report the same to the court having jurisdiction within eighteen hours after taking such bond.

281.380 (2739g-97) *Commissioning employees as highway patrols; powers.* In addition to all other enforcement agencies, the Division of Motor Transportation and the Department of Revenue are hereby authorized to issue commissions to their employees, or any of them, as highway patrols, and such employees, when so commissioned, shall have all the powers of peace officers in respect of the enforcement of this chapter, and of all the laws relating to motor vehicles, and particularly the powers hereinabove in KRS 281.370 granted to other officers.

HEARINGS, APPEALS AND INJUNCTIONS AS TO COMMON CARRIERS AND CONTRACT CARRIERS

281.390 (2739j-43) *Investigations, inquiries, and hearings; how conducted.* The Division of Motor Transportation may conduct any investigation, inquiry, or hearing that it deems proper in connection with the performance of its duties under this chapter with respect to common carriers and contract carriers. The investigation, inquiry or hearing may be conducted by or before the director or any representative of the division designated by him. Any decision or order made by a person other than the director shall, when approved and confirmed by the director and entered on the records of the division, be treated for all purposes as the decision or order of the division.

Heads of administrative departments and their representatives may administer oaths, KRS 12.120

281.400 (2739j-85) *Report of hearing.* Upon the completion of any hearing, the division shall render a written report of its findings of fact and conclusions of law, and shall include a statement of any other matters pertinent to the question at issue. This report shall be filed with the records of the proceedings, and a copy thereof shall be immediately sent to all parties to the proceedings.

281.410 (2739j-72; 2739j-86; 2739j-89) *Right of appeal, how taken.* (1) Any appeal may be taken to the Franklin circuit court from the action of the division in the following cases by the following persons:

(a) When an application for a certificate or permit has been refused, in whole or in part, by the applicant.

(b) When an application for a certificate or permit has been granted, in whole or in part, by any person who has filed a protest to the granting of the application.

(c) When the division, under the provisions of KRS 281.120 has refused to renew or has undertaken to cancel a certificate or permit in whole or in part, by the holder of the certificate or permit.

(d) When the division, under the provisions of KRS 281.130, has suspended, revoked, altered, or amended or refused to amend a certificate or permit, by the holder of the certificate or permit, or by anyone who has filed a protest.

(2) The appeal may be taken by filing a petition of appeal with the clerk of the Franklin circuit court within twenty days after the rendition of the order of the division. The petition shall state completely the grounds upon which the review is sought, shall assign all errors relied on, and shall be accompanied by a copy of the record, certified by the director, or an abstract thereof if agreed to by all parties to the hearing. The appellant shall furnish a copy of the petition to each person who was a party to the hearing before the division. Summons shall be issued upon the petition, directing the adverse party or parties to file answer within fifteen days after service of the summons.

(3) In the case of appeals under paragraph (c) of subsection (1) of this section, the certificate or permit shall remain in effect pending the appeal in the circuit court and in the Court of Appeals, not to exceed however a period of eighteen months from the date of the order appealed from.

281.420 (2739j-72; 2739j-87; 2739j-88; 2739j-89) *Pro-*

*cedure on appeal; powers of circuit court; judgment; appeal to Court of Appeals.* (1) The division and each party may appear in the proceedings in circuit court on an appeal taken under KRS 281.410.

(2) In the case of appeals under paragraph (a), (b), or (d) of subsection (1) of KRS 281.410, no new or additional evidence may be introduced in the circuit court except as to fraud or misconduct of some person engaged in the administration of this chapter and affecting the order; the court shall hear the case upon the certified record or abstract thereof, and shall dispose of the case in a summary manner, its review being limited to determing whether or not the division acted without or in excess of its power, the order was procured by fraud, the order is in conformity to the provisions of this chapter, and the finding of facts in issue is supported by any substantial evidence. On such appeals, the court may in advance of judgment and upon a sufficient showing of facts, remand the case to the division.

3 In the case of appeals under paragraph (c) of subsection (1) of KRS 281.410, all parties may be permitted to introduce new evidence, and the circuit court shall try the matter de novo.

(4) The court shall enter judgment confirming, modifying or setting aside the order, or, in its discretion, remanding the case to the division for proceedings in conformity with the directions of the court.

(5) Any party may appeal from the circuit court to the Court of Appeals, and such appeals shall have precedence of other cases pending in the Court of Appeals.

281.430 (2739j-92) *Injunctions.* At the instance of the Division of Motor Transportation, or of any person having an interest in the subject matter, the courts of this state may enjoin any person from violating any of the provisions of this chapter relating to common carriers or contract car-

riers, or any order, rule, regulation or requirement of the division relating to such carriers.

281.440 (2739j-93) *Public attorneys to represent Division of Motor Transportation.* Upon the request of the Division of Motor Transportation, the Attorney General, or any Commonwealth's attorney or county attorney, shall represent the division within his jurisdiction and without additional compensation in any action or proceeding, in which the division is a party, arising under the provisions of this chapter relating to common carriers or contract carriers.

Attorney General, duties as to state litigation, KRS 15.020

Police powers of officers and employes of Division of Motor Transportation, KRS 189.640

## TAXICABS AND CITY BUSSES

281.450 (2739L-10) *Taxicabs and city busses must obtain permit; list of drivers to be filed.* No person shall transport passengers for hire upon any public highway who is not qualified so to do under KRS 281.040 or 281.200, without having procured form the Division of Motor Transportation an authorization for such operation. Before the division shall issue an authorization the person seeking it shall file with the division an application, in such form as the division requires, setting forth, among other matters, the name and residence of the applicant, the name of the chief officer if the applicant is a corporation, and the name of the members if the applicant is a partnership, the number and description of the vehicles to be used, the place where the applicant proposes to operate, and a list of all drivers employed or to be employed. If any changes are made in the drivers or any additional drivers are employed, the operator shall furnish a list thereof to the division. Authorizations shall be renewed at such times, in such manner and upon such conditions as the division prescribes.

281.460 (2739L-11) *Financial responsibility of operators of taxicabs and city busses.* (1) Before any authorization for the operation of a taxicab or city bus is granted by the division under KRS 281.450, the applicant shall file with the director a good and sufficient bond with adequate corporate surety, payable to the Commonwealth, binding the obligor to pay any final judgment rendered against him arising out of the death of or injury to any passenger, or loss of or damage to property while in transit, or death of or injury to other persons or damage to their property, or any act or omission connected with the operation of motor vehicles by the applicant. The bond shall be in the penal sum of five thousand dollars for each motor vehicle operated, for death of or injury to persons, and in the further sum of one thousand dollars for each motor vehicle operated, for damage to property.

(2) In lieu of the bond, the director may accept a policy of insurance, or other written contract deemed by the director to be adequate, issued by any insurance company or insurance carrier authorized to do business in this State, by which the insurance company or insurance carrier shall assume the liability prescribed by subsection (1) of this section.

(3) The director may exempt in whole or in part from the requirements of this section any person who applies for such exemption and shows to the satisfaction of the director that, by reason of the financial ability of the person applying, there is due assurance of the payment of all damages for which he may become liable as a result of the operation of any vehicles owned by him.

(4) If any applicant files with the director an affidavit as to his inability to obtain a bond or policy of insurance with corporate surety, the director may accept a bond with personal surety, in lieu of the bond or policy required by subsections (1) and (2) of this section. Before accepting a bond with personal surety, the director may require the applicant to file his affidavit, and the affidavit of the surety, as to the property qualifications of both principal and surety, and the

director shall be the judge of the sufficiency of both principal and surety.

(5) The exemptions provided for in subsection (4) of this section shall be made only by written order of the director. The director may from time to time require statements of the financial condition of the person so exempted, and may for cause, upon ten days' notice in writing, revoke the order granting the exemption in which event the person whose exemption is revoked shall immediately comply with the other requirements of this section.

(6) No insurance company or insurance carrier issuing any policy filed with the director, and no surety or other obligor on any bond or contract filed with the director shall be relieved from liability under the policy, bond or contract until after the expiration of fifteen days' notice to the director of an intention to cancel the policy, bond or contract. The acceptance of such notice and the cancellation of the policy, bond or contract by the director shall not relieve the insurance company, insurance carrier, surety or obligor of any liability that accrued prior to the effective date of the cancellation. The director may require all bonds or insurance policies to expire and be renewed upon a given day.

(7) If, after notice and hearing, the director finds that any person holding an authorization under KRS 281.450 has violated any of the provisions of KRS 281.450 to 281.480, the director shall cancel the authorization issued to such person. After cancellation, such person may not ask for a renewal of this authorization for a period of six months. Any person whose authorization is canceled by the director may appeal to the Franklin circuit court, where the case shall be tried de novo.

Motor vehicle financial responsibility law, Ch. 187

School busses, liability insurance for KRS 160.310

281.470 (2739j-21; 2739j-21a; 2738j-15) *Operation in competition with common carrier.* No person shall operate

a taxicab in competition with a common carrier over the route or any part of the route covered by the certificate of the common carrier, except for casual trips, and on such casual trips the operator of the taxicab shall not pickup any passengers along the route and shall not on the return trip carry any passengers other than those carried on the original trip.

## TAXES

281.480 (2739j-78) *Weight tax on trucks operated by common carriers and contract carriers.* On or before January 1 of each year, and as a condition precedent to the use of the public highways, every common carrier and every contract carrier primarily engaged in transporting property for hire shall pay to the Division of Motor Transportation or its agent at Frankfort, for the privilege of using the highways, an annual excise tax equal to one dollar for each hundred pounds or fraction thereof, of weight of each motor vehicle operated by him for the transportation of property for hire. The taxable weight shall be the weight of the vehicle at the time of the application for use of the highways, empty, and ready for operation. The tax shall be increased fifty percent on each motor vehicle not equipped wholly with pneumatic tires.

Registration fee for trucks, KRS 186.050

Tax goes to the Road Fund, KRS 47.010

Vehicles for which this tax is paid are exempt from usage tax, KRS 138.470

Weight limit for trucks, KRS 189.220

281.490 (2739j-78b; 2739j-78c) *Statement as to weight of trucks; revocation of certificate or permit for misrepresentation.* (1) Each application for the use of the highways for the transportation of property for hire upon payment of the tax imposed by KRS 281.480 shall be accompanied by a statement, duly attested before a notary public, to the effect that the motor vehicle was weighed at the time of making the ap-

plication and that the weight stated therein is the true weight of the motor vehicle at that time.

(2) In addition to any other penalties, any misrepresentation with respect to the weight of a motor vehicle shall be grounds for the revocation of the permit or certificate in the manner provided by KRS 281.130.

281.500 (2739j-78a; 2739j-78d) *Increase of weight; display of weight; weight tags.* (1) After paying the tax imposed by KRS 281.480, no common carrier or contract carrier shall increase the weight of a motor vehicle for which the tax was paid, except by ordinary repairs, without first obtaining the permission of the Director of the Division of Motor Transportation and paying the additional excise tax on the added weight.

(2) Every common carrier and every contract carrier, upon paying the tax imposed by KRS 281.480, shall cause to be printed or posted, on the left side of the cab or hood of each vehicle for which the tax was paid, its weight, when empty and ready for operation, in figures at least three inches in height and preceded by words or letters indicating that this is the weight of the motor vehicle when empty, and shall display so as to be visible any weight tags furnished by the director.

Weight limit for trucks, KRS 189.220

281.510—*Tax on casual or occasional trips.* (1) Those operators making casual or occasional trips for the transportation of persons or property for hire shall register the equipment used in this State with the Division of Motor Transportation, and shall pay for each motor vehicle operated a registration fee of five dollars. At the time of such registration the operator shall file with the division public liability and property damage insurance in the same amounts and in the same form as required of common and contract carriers regularly qualified within this State.

(2) For each motor vehicle primarily engaged in the

transportation of passengers for hire the operator shall report and pay mileage tax as required of common and contract carriers regularly qualified to engage in the transportation of persons for hire within this State; provided however that if any such motor vehicle be used by any certificated carrier upon any of its routes in this State, then double mileage tax shall be reported and paid.

(3) For every motor vehicle engaged in the transportation of property for hire the operator shall, under reasonable rules and regulations to be prescribed by the Division of Motor Transportation, pay to the Division of Motor Transportation for the privilege of using the highways an excise or trip tax of $2.50 for each trip into or through Kentucky in the transportation of property for hire in this State.

281.520 (2739o-1; 2739o-2) *Mileage, tag and seat taxes on passenger vehicles operated by common carriers and contract carriers; taxicabs.* (1) Except as provided in subsection (2) of this section, every common carrier and every contract carrier shall pay to the Director of the Division of Motor Transportation, for each motor vehicle operated by such carrier for the transportation of persons under a certificate or permit, a mileage tax equal to one–thirty-sixth of a cent for each regular seat in the vehicle multiplied by the total number of miles traveled, and, in addition, a tag tax equal to eight dollars for each regular seat for the first sixteen seats, fifteen dollars for each regular seat for the next eight seats, and twenty-five dollars for each regular seat for all remaining seats.

(2) The mileage tax and tag tax imposed by subsection (1) of this section do not apply to taxicabs, city busses and U-drive-its nor to vehicles operating under a certificate in interstate commerce where such vehicle does not enter the State of Kentucky a distance of more than ten miles from the point of entry into this State, but a tax of one dollar and fifty cents for each regular seat in such vehicles shall be paid.

(3) The term "regular seat," as used in this section and in KRS 281.530, means a seat ordinarily and customarily used by one passenger, but does not include folding or collapsible emergency aisle seats, provided that the number of such folding or collapsible emergency aisle seats shall not be greater in number than twenty-five per cent of the regular seats in the vehicle. Passenger vehicles of the regular passenger automobile type shall be considered to have three regular seats on the rear seat or any like seat, one regular seat with the driver and two regular seats for any collapsible seat between the rear seat and the driver's seat. Where any seats in the vehicle are not distinguished by separate cushions and backs, a seat shall be counted for each eighteen-inch space on such seats, or major portion thereof.

Registration tax need not be paid for passenger vehicle operating under certificate, KRS 186.020, 196.050

Tax goes to Road Fund, KRS 47.010

Vehicles for which this tax is paid are exempt from usage tax, KRS 138.470

281.530. (2739o-1; 2739o-3) *Seat tax on U-drive-its.* No person may operate any vehicle to be used as a U-drive-it until he has paid to the Director of the Division of Motor Transportation a tax of one dollar and fifty cents for each regular seat, as defined in KRS 281.520. As used in this section, a "U-drive-it" means a motor vehicle let out for hire for the transportation of persons but for which no driver is furnished.

281.540 (2739o-2; 2739o-4; 2739j-27) *Time of paying mileage, tag and seat taxes, refunds.* (1) The tag and seat taxes imposed by KRS 281.520 and 281.530 shall be paid annually, in advance, on or before January 1. The mileage tax imposed by KRS 281.520 shall be paid monthly. If any person required to pay a tag or seat tax under KRS 281.520 or 281.530 begins the operation of any vehicle covered by those sections after January 1 in any year, he shall only be required to pay

the proportionate part of the taxes for the remainder of the year.

(2) When any motor vehicle that has been licensed by the Director of the Division of Motor Transportation for operation for hire over the public highways in this State is destroyed by fire, sold or transferred to another person, and is not to be used any further on the public highways of this State by the person to whom it was licensed, such person may surrender to the director the license tax or certificate of such vehicle issued by the director, and upon satisfactory proof to the director that the motor vehicle will not be further used on the highways of this State by such person, the director shall give credit to such person for the amount of the unearned portion of the license fees for another vehicle belonging to him, which is to be put into service in that year. No cash refunds shall be made in any event and no credit shall be given in excess of the fractional year's fee on the new motor vehicle or vehicles licensed for that year.

281.550 (2739j-80; 2739j-81; 2739j-84) *Mileage of passenger vehicles, how ascertained and reported.* (1) In order to ascertain the mileage traveled by motor vehicles subject to the mileage tax imposed by KRS 281.520, the Division of Motor Transportation shall prescribe the records to be kept by each person operating such a motor vehicle. On or before the fifteenth day of each month each such person shall file with the division, in duplicate, his sworn statement, or the sworn statement of a person having knowledge of the facts and designated therefor by him, showing the mileage traveled by every such motor vehicle operated by him during the preceding calendar month. The tax reflected by the report shall be paid at the same time that the report is filed.

(2) The division may prescribe the character of appliances to be used on motor vehicles subject to the mileage tax in order to establish the correct mileage traveled, and may adopt rules and regulations with respect to the care and inspection of such appliances and reports of the mileage

shown. Each person operating any vehicle subject to the mileage tax shall comply with the rules and regulations of the division adopted under this section.

(3) A penalty of twenty per cent shall be added to any tax for failure to pay the tax when due, and, in addition thereto, a penalty of one per cent for each month, or fraction thereof, the tax is in default.

281.560 (2739j-83; 2739j-84) *Accounts and records for tax purposes; registration of carriers.* The division may require any operator of a motor vehicle for hire to keep within this State, subject to inspection at all reasonable times by the division, such books of account or records as are reasonably necessary to enable the division to obtain full information at all times regarding the amounts due from such operator under this chapter. The books and records of all common carriers and contract carriers shall be at all times open to inspection by the division.

281.570. (2739j-79) *Fees and taxes under this chapter are in addition to others; exceptions.* (1) Except as otherwise provided in KRS 138.470, 186.020 and 186.050, and in subsection (2) of this section, the fees and taxes prescribed by this chapter shall be in addition to the fees and taxes prescribed by any other law of this State.

(2) No city may impose a license fee or tax upon any motor vehicle operated under a certificate or permit.

Power of cities to tax motor vehicles other than common and contract carriers, KRS 186.270, 189.270

Registration fee for trucks, KRS 186.050

Registration fee not required for passenger vehicle operated under certificate, KRS 186.020, 186.050

Usage tax not required for vehicles for which weight or mileage tax is paid KRS 138.470

## PENALTIES

281.990 (2739j-39; 2739j-90; 2739j-91; 2739L-14) *Penalties.* Any person who violates, or causes, aids or abets any

violation of, any of the provisions of this chapter or any order, rule or regulation lawfully issued pursuant to authority granted by this chapter, or who knowingly makes any false or erroneous statement, report or representation to the Division of Motor Transportation with respect to any matter placed under the jurisdiction of the division by this chapter, or who knowingly makes any false entry in the accounts or records required to be kept pursuant to the authority granted by this chapter, or who knowingly fails to keep, or knowingly destroys or mutilates, any such accounts or records, shall be fined not less than fifteen dollars nor more than two hundred dollars, or imprisoned for not more than thirty days, or both. Every device to evade or to prevent the application of any provision of this chapter, or any lawful order, rule or regulation of the division issued pursuant thereto, shall constitute a violation thereof.

Section 2. KRS 189.640 and 189.650 are repealed.

Section 3. This act shall take effect as of the effective date of the Kentucky Revised Statutes.

By Mr. Barry.

H. B. 372. An Act to repeal section seventeen hundred sixty-three of Carroll's Kentucky Statutes Baldwin's 1936 Revision and reenact in lieu thereof the following, which relates to salaries in the offices of county clerk, circuit court clerk and sheriffs in counties having a population of two hundred thousand or over.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That Section seventeen hundred sixty-three of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be re-

pealed and that the following new matter be enacted in lieu thereof.

(1) In counties having a population of two hundred thousand (200,000) or over the salary of the chief deputy sheriff shall be fixed at a reasonable amount not exceeding three thousand dollars ($3,000.00) a year. The salary of one deputy sheriff who shall act as process clerk shall be fixed at a reasonable amount not to exceed twenty-five hundred dollars ($2,500.00) a year and the salary of each of the other deputy sheriffs shall be fixed at a reasonable amount not exceeding two thousand dollars ($2,000.00) a year.

(2) In counties having a population of two hundred thousand (200,000) or over the salary of the chief deputy circuit court clerk shall be fixed at a reasonable amount not exceeding three thousand dollars ($3,000.00) a year, the salary of one deputy circuit court clerk who shall act as cashier shall be fixed at a reasonable amount not exceeding twenty-five hundred dollars ($2,500.00) a year, and the salary of each of the other deputies in the office of the circuit court clerk shall be fixed at a reasonable amount not exceeding two thousand dollars ($2,000.00) a year.

(3) In counties having a population of two hundred thousand (200,000) or over the salaries of the first four deputy county court clerks shall be fixed at a reasonable amount not exceeding three thousand dollars ($3,000.00) a year and the salary of each of the other deputies in the office of the county court clerk shall be fixed at a reasonable amount not exceeding two thousand dollars ($2,000.00) a year.

Section 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, then, upon taking effect of the Kentucky Revised Statutes, subsection (2) of KRS 28.300 shall be treated as amended to read as follows:

In counties containing a population of 75,000 or more and up to 200,000, the salary of the chief dejuty circuit court clerk

shall be fixed at a reasonable amount not exceeding twenty-five hundred ($2,500.00) dollars per annum, and the salaries of the other deputy circuit clerks shall be fixed at a reasonable amount not exceeding two thousand ($2,000.00) dollars per annum. In counties having a population of two hundred thousand (200,000) or over the salary of the chief deputy circuit court clerk shall be fixed at a reasonable amount not exceeding three thousand dollars ($3,000.00) a year, the salary of one deputy circuit court clerk who shall act as cashier shall be fixed at a reasonable amount not exceeding twenty-five hundred ($2,500.00) a year, and the salary of each of the other deputies in the office of the circuit court clerk shall be fixed at a reasonable amount not exceeding two thousand dollars ($2,000.00) a year.

Subsection (3) of KRS 28.300 shall be treated as amended to read as follows:

"In counties containing a population of 75,000 or more and up to 200,000, the salaries of the first four deputy county clerks shall be fixed at reasonable amounts, which need not be the same, and none of which shall exceed $2,500 per annum. The salaries of each of the other deputy county court clerks in such counties shall be fixed at a reasonable amount not exceeding $2,000 per annum."

Subsection (3) of section one of this Act shall be substituted in place of subsection (4) of KRS 28.300; subsection (3) of KRS 70.030 shall be treated as amended to read as follows:

"In each county containing a population of 75,000 or over, the number of deputies allowed to the sheriff and the compensation allowed to each deputy, shall be fixed by an order entered upon the order book of the circuit court and the county court, and signed by a majority of the judges of said courts. A certified copy of the order, and of any subsequent changes therein, shall, as soon as entered, be for-

warded to the Department of Finance. In counties containing a population of 75,000 or over and up to 200,000, the salary of the chief deputy sheriff shall be fixed at a reasonable amount not exceeding $2,500 per annum, and the salary of each other deputy sheriff shall be fixed at a reasonable amount not exceeding $2,000 per annum. In counties having a population of 200,000 or more, the salary of the chief deputy sheriff shall be fixed at a reasonable amount not exceeding $3,000 per annum, the salary of one deputy sheriff, who shall act as process clerk, shall be fixed at a reasonable amount not to exceed $2,500 per annum, and the salary of each of the other deputy sheriffs shall be fixed at a reasonable amount not exceeding $2,000 per annum.''

and this Act shall thereafter be treated as amending the Kentucky Revised Statutes rather than Carroll's Statutes.

By Mr. Henry Ward.

H. B. 373. An Act relating to Alcoholic Beverages.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

1. Section 2554b-112 of Baldwin's 1938 Supplement to Carroll's Kentucky Statutes is amended to read as follows:

County Licenses and Taxes; Provisions Concerning. The fiscal court of each county in this Commonwealth in which traffic in alcoholic beverages is not forbidden under sections 2554c-1 to 2554c-42 of Carroll's Kentucky Statutes, 1936 edition, shall have power and authority to impose and collect license fees or taxes for the privilege of engaging in the business of trafficking in alcoholic beverages. It shall be the duty of the county clerk immediately to notify the State Board of the amount of the taxes fixed. Only such licenses may be

issued as correspond, in their provisions and the business authorized, to wholesale liquor licenses, retail package licenses, retail drink licenses, and beer retailer's licenses as provided in this Act. The license fees or taxes imposed shall in no event exceed twice the amount of the fees or taxes imposed in sections 18 and 96 of this Act, provided, however, the wholesale liquor license fee imposed by any county shall not exceed five thousand dollars ($5,000), and any amount paid to any incorporated city within the county as a license tax for the same privilege for the same year may be credited against the county license tax. The licenses authorized by this section shall be issued and the taxes collected by the county clerk who may charge a fee of fifty cents for his services for each license issued. The county clerk shall report and pay to the county treasurer at the end of each month such taxes as he has collected. No license shall be issued without the approval of the County Administrator if there be one in the county. The licenses shall be issued in such form as may be prescribed by the County Administrator, if there be one in the county, or by the State Control Board if there be no county Administrator.

2. Section 2554b-113 of Baldwin's 1938 Supplement to Carroll's Kentucky Statutes is amended to read as follows:

City Licenses and Taxes; Provisions Concerning. The city council, board of aldermen, or other municipal legislative body of each incorporated city in this Commonwealth in which traffic in alcoholic beverages is permitted under sections 2554c-1 to 2554c-42 of Carroll's Kentucky Statutes, 1936 edition, shall have power and authority to impose and collect license fees or taxes for the privilege of engaging in the business of trafficking in alcoholic beverages. It shall be the duty of the city clerk immediately to notify the State Alcoholic Beverage Control Board of the amount of the taxes fixed. Only such licenses may be issued as correspond in their provisions and the business authorized, to the licenses pro-

vided for in subsections one, two, four, five and six of section 18 of Chapter 2 of the Acts of the General Assembly of 1938, and subsections six and seven of section 29 of Chapter 2 of the Acts of the General Assembly of 1938, and subsections one, two, three and six of section 96 of Chapter 2 of the Acts of the General Assembly of 1938. The license fees or taxes imposed shall in no event exceed twice the amount of the fees or taxes imposed in sections 18, 29, and 96 of Chapter 2 of the Acts of the General Assembly of 1938, except that the fee or tax imposed upon wholesale liquor licenses may be fixed at any sum not exceeding five thousand ($5,000) dollars, and except that no beer retailer's license shall exceed two hundred ($200) dollars; and except that no brewers license shall exceed five hundred ($500) dollars, and except that no distiller's license shall exceed five hundred ($500) dollars. The licenses authorized by this section shall be issued and the taxes collected by such appropriate municipal official as may be designated by ordinance, and he shall report and pay to the city treasurer at the end of each month such taxes as he has collected. No license shall be issued by the clerk without the approval of the City Administrator, if there be one in the City. The licenses shall be issued in such form as may be prescribed by the City Administrator, if there be one in the City, or by the State Control board if there be no City Administrator.

3. Section 2554b-114 of Baldwin's 1938 Supplement to Carroll's Kentucky Statutes is amended to read as follows:

Expiration Date of Lincenses; License Taxes. All licenses issued under this Act shall expire on June 30th of each year. There shall be the following kinds of licenses, each of which shall be printed so as to be readily distinguishable from each other, to wit:

(1) Distiller's license, the fee for which shall be $500 per annum.

(2) Rectifier's license, the fee for which shall be $1,500

per annum, provided, in the case of an applicant who performs the functions of a rectifier only to a limited extent, there may be issued a limited rectifier's or blender's license, the fee for which shall be $500. A blender's license shall be issued only to applicants who produce or process traditional Kentucky whiskies exclusively. A blender's license shall authorize the holder to produce not exceeding five thousand barrels annually and to perform only the following functions.

(a) Blend and bottle Straight Whiskies produced in Kentucky, which have been aged in new charred oak barrels in unheated Kentucky Warehouses for not less than four and not more than twelve years, to which nothing shall be added except imported Spanish Blending Sherry and/or genuine rock candy syrup and/or distilled water, and which contains no artificial coloring; or

(b) Bottle straight whiskies produced in Kentucky, which have been aged in new charred oak barrels in unheated Kentucky Warehouses for not less than four nor more than twelve years; or

(c) Bottle white Kentucky Whiskey of any age which has been filtered through charcoal in a manner permitted by the Federal Government.

(3) Vintner's license, the fee for which shall be $500 per annum.

(4) License to sell distilled spirits and wine at wholesale, the fee for which shall be $6,750 per annum.

(5) License to sell distilled spirits and wine at retail by the package for consumption off the premises, the fee for which, according to the location of the dispensary, shall be as follows:

In counties containing cities of the first class—$500 (Five hundred dollars).

In counties containing cities of the second class—$400 (Four hundred dollars).

In counties containing cities of the third class—$300 (Three hundred dollars).

In counties containing cities of the fourth class—$200 (Two hundred dollars).

In all other counties—$100 (One hundred dollars).

(6) License to sell distilled spirits and wine at retail by the glass, for consumption on the premises, the fee for which, according to the location of the dispensary, shall be as follows:

In counties containing cities of the first class—$700 (Seven hundred dollars).

In counties containing cities of the second class—$400 (Four hundred dollars).

In counties containing cities of the third class—$300 (Three hundred dollars).

(7) License to transport distilled spirits and wine to or from any point in Kentucky, the fee for which shall be $10 per annum.

(8) License to sell distilled spirits and wine by the package or by the glass upon railroad dining cars, the fee for which shall be $50 per annum.

(9) Special licenses as provided for in section 29 of this Act, the fee for which shall be $2.00 per annum except as in this Act otherwise specifically provided.

4. Section 2554b-116 of Baldwin's 1938 Supplement to Carroll's Kentucky Statutes is amended to read as follows:

Credit on State Wholesale and Retail Licenses. On wholesale distilled spirits and wine licenses issued by the State for any license period, there shall be a credit on the license tax for the full amount required to be paid to any county or to any incorporated city for the same privilege for the same year, provided the amount of tax for the State license shall in no event be less than $1750 per annum.

On retail package and retail drink licenses issued by the State for any license period beginning on or after July 1, 1939 there shall be credited on the license tax one-half of any amount required to be paid to any county or to any incorporated city for the same privilege for the same year, pro-

vided the amount of the tax for the State license shall in no event be reduced more than fifty per cent.

5. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall stand repealed as of the effective date of the Kentucky Revised Statutes, and the following shall take effect in lieu thereof:

The fiscal court of each county in which traffic in alcoholic beverages is not prohibited under KRS Chapter 242 may impose license fees for the privilege of trafficking in alcoholic beverages. Only such licenses may be issued as correspond, in their provisions and the business authorized, to wholesale liquor licenses, distilled spirits and wine retail package licenses, distilled spirits and wine retail drink licenses and malt beverage retailers' licenses. The license fees shall not exceed twice the amount of the fees imposed in KRS 243.030 and 243.040 for such licenses, except that the fee for a wholesaler's liquor license may be fixed at not exceeding $5,000.

The provision so substituted by this section shall thereafter be treated as an amendment to subsection (1) of KRS 243.060 rather than an amendment to § 2554b-112 of Baldwin's Supplement, and KRS 343.600 and the remainder of KRS 343.060 shall remain in full force and effect and shall not be treated as affected by this Act.

6. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section two of this Act shall stand repealed as of the effective date of the Kentucky Revised Statutes, and the following shall take effect in lieu thereof:

The city legislative body of any city in which traffic in alcoholic beverages is not prohibited under KRS Chapter 242 may impose license fees for the privilege of trafficking in alcoholic beverages. Only such licenses may be issued as correspond, in their provisions and the business authorized, to the licenses provided for in subsections (1), (2), (3), (5), (6),

(7), (15) and (16) of KRS 243.030 and subsections (1), (2), (3) and (6) of KRS 243.040. The fees imposed shall not exceed the amount of the fees imposed in KRS 243.030 and 243.040 for such licenses, except that: The fee for a malt beverage retailer's license may be fixed at not exceeding two hundred dollars; the fee for a wholesaler's liquor license may be fixed at not exceeding $5,000; the fee for a brewer's license shall not exceed five hundred dollars; the fee for a distiller's license shall not exceed five hundred dollars.

The provision so substituted by this section shall thereafter be treated as an amendment to KRS 243.070 rather than an amendment to § 2554b-113 of Baldwin's Supplement, and KRS 243.610 shall remain in full force and effect and shall not be treated as affected by this Act.

7. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section three of this Act shall stand repealed as of the effective date of the Kentucky Revised Statutes, and the following shall take effect in lieu thereof:

Wholesaler's license, per annum .....$6,750.00

The provision so substituted by this section shall thereafter be treated as an amendment to subsection (5) of KRS 243.030 rather than an amendment to § 2554b-114 of Baldwin's Supplement, and KRS 243.090, 243.140, 243.300, 243.440 and the remainder of 243.030 shall remain in full force and effect and shall not be treated as affected by this Act.

8. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section four of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 243.080, and thereafter be treated as an amendment to KRS 243.080 rather than an amendment to § 2554b-116 of Baldwin's Supplement.

By Mr. Bolling.

H. B. 374. An Act relating to banks and trust companies.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Any national bank having the capital stock required by the laws of this state for a combined bank and trust company located in the city in which such national bank is located may exercise the powers of a trust company.

By Mr. Henry Ward.

H. B. 375. An Act to establish the boundary line between the State of Indiana and the Commonwealth of Kentucky by agreement; to provide that the line so established shall become the boundary line upon the enactment of a similar and reciprocal law by the State of Indiana and the approval and consent to the compact thereby effected by the Congress of the United States of America.

Said bill is as follows, viz.:

WHEREAS, by decree of the Supreme Court of the United States in the case of Indiana v. Kentucky, decided May 18, 1896, and reported in 163 Ind. U.S.R., the boundary line between the State of Indiana and the Commonwealth of Kentucky between certain terminal points therein described was fixed and established, and

WHEREAS, neither of said terminal points reached the low water mark of the right side of the Ohio River, forming the remainder of the boundary line between said States, and

WHEREAS, owing to the facts recited in the preceding literary paragraph hereof a dispute has arisen as to the boundary line connecting said terminal points with said low water mark, and

WHEREAS, the Governor of the State of Indiana and the Governor of the Commonwealth of Kentucky have appointed Commissioners to study said question for the purpose of ascertaining the true and legal boundary line thus in dispute, and

WHEREAS, said Commissioners have agreed upon the true and legal boundary line; NOW THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That on and after the enactment of a similar and reciprocal law by the State of Indiana and the approval and consent of the Congress of the United States of America to the compact thereby effected, the boundary line between the State of Indiana and the Commonwealth of Kentucky shall be as follows, that is to say:

Commencing at a point on the line between Sections 15 and 14, Township 7 South, Range 10 West, and 67.25 chains South of the Northeast corner of Section 15, the same being the beginning point in the description of the part of the boundary line as fixed by the Supreme Court of the United States in Indiana v. Kentucky, decided May 18, 1896, and reported in 163 Ind. U.S.R.; thence south 0°, 53′ 15″ West to the low water mark on the right side of the Ohio River and thence upstream at low water mark on the right side of said River. Also beginning at the same beginning point to-wit: the beginning point in the description of the part of the boundary line between the State of Indiana and the Commonwealth of Kentucky as fixed by the Supreme Court in the cases above recited and following that line to the end of so much of said boundary line as was fixed by said decree; thence due West to the low water mark on the right side of the Ohio River and thence downstream with said low water mark on the right side of said River.

§ 2. Upon the enactment of a similar and reciprocal

law by the State of Indiana, and the approval and consent of the Congress of the United States to the compact thereby effected, evidence thereof, together with the survey and report of the Commissioners by whom the boundary line was agreed upon, shall be filed in the office of the Secretary of State of Kentucky, and a copy thereof shall be filed in the office of the county court clerk of Henderson County, Kentucky.

By Mr. Marcum.

H. Res. 76. A JOINT RESOLUTION for the benefit of Charles H. White, Clay County, Kentucky, for services rendered in behalf of the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

WHEREAS, Charles H. White served as sheriff of Clay County, Kentucky from March 29, 1937 until the first Monday in January, 1938, a period of nine months and three days, to fill the unexpired term of the office of sheriff; and

WHEREAS, said Charles H. White served as sheriff after the effective date of an Act authorizing pay to sheriffs for acting as highway patrols; and

WHEREAS, Charles H. White earned the sum of $1137.50 for his services in patrolling the highways and roadhouses and other places of amusement in Clay County, no part of which has ever been paid to him or to anyone for his use and benefit, now therefore:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Charles H. White, Clay County, Kentucky, for his services in patrolling the highways and roadhouses and other places of amusement in Clay County, is entitled to the sum of $1137.50, and immediately upon the passage of

this resolution the Commissioner of Finance shall draw a warrant in favor of Charles H. White in the amount of $1137.50 and immediately transmit it to the State Treasurer, who shall issue a check in favor of Charles H. White in the amount of $1137.50 from the General Expenditure Fund.

By Mr. Wagner.

H. Res. 77. Resolution authorizing the payment of costs and attorney's fee in the contest case of Stone vs. Hunt.

Said resolution is as follows, viz.:

WHEREAS, during the 1942 Regular Session of the Legislature a contest was filed by Phillip Stone, contestant, against W. H. Hunt, contestee, arising out of the November election held in Muhlenberg County; and

WHEREAS, this contest was duly presented to the House of Representatives for its consideration; and

WHEREAS, a Contest Committee was selected by lot to consider and decide the contest; and

WHEREAS, said contest Committee, with the agreement of the parties involved, employed the Hon. Richard P. Dietzman to act as special Commissioner in helping consider the Contest; and

WHEREAS, after due consideration by this Committee and by vote of the House, it was decided that the Hon. W. H. Hunt, contestee, was entitled to represent Muhlenberg County in the House; and

WHEREAS, that there is hereby appropriated out of the Legislative Session Fund the sum of $116 to the Hon. T. J. Sparks as attorney for the Contestee; to the Hon. Sam T. Jarvis the sum of $150 as his fee and expenses as attorney for the contestant; the sum of $61.86 to Martha F. Lovell for stenographic fees; to Philip Stone the sum of $50 for ex-

penses; to the Hon. W. H. Hunt the sum of $34. as expenses; to the Hon. Richard P. Dietzman the sum of $35 as fee and expenses as special Commissioner; to the Hon. S. J. Wagner the sum of $25 to cover incidental and necessary Committee expenses; and the Commissioner of Finance is hereby directed to draw his warrants upon the Treasurer in favor of the above mentioned parties for the above amounts specified.

Mr. Henry Ward moved that the House do now recess for one hour.

Said motion was agreed to.

And then the House recessed.

One hour having expired, the Speaker resumed the Chair and called the House to order.

Mr. Henry Ward moved that the Rules of this House be suspended for the purpose of making a committee report.

Said motion was agreed to.

Thereupon Mr. Henry Ward of the Committee on Rules, to which the same had been referred, reported bills of the following titles, viz.:

H. B. 371. An Act relating to motor carriers.

H. B. 366. An Act relating to the licensing of carnivals and circuses.

H. B. 348. An Act relating to insurance policies.

H. B. 321. An Act relating to automobiles and motor vehicles.

H. B. 372. An Act relating to offices of county clerk and other county officers in counties, etc.

H. B. 373. An Act relating to alcoholic beverages.

H. B. 375. An Act to establish boundary line between State of Indiana and Kentucky by agreement.

H. Res. 68. Resolution authorizing payment of costs in contest case of Cooper vs. Duff.

H. Res. 75. Resolution providing for the furnishing of copies of Kentucky Revised Statutes to members of General Assembly 1942.

With the expression of opinion that said bills and resolutions ought to pass.

Said bills and resolutions were each and severally read at length the first time and ordered to be placed on the Calendar.

Mr. Henry Ward moved that the House do now adjourn.

Said motion was agreed to.

And then the House adjourned.

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TUESDAY, FEBRUARY 24, 1942

The House was called to order by The Honorable Stanley S. Dickson, Speaker.

The House was opened with prayer by the Reverend Father Joseph A. O'Dwyer of the Roman Catholic Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

C. W. Anderson, Jr.
Robert E. Barry
Robert E. Beatty
Douglas T. Bolling
H. M. Brock, Jr.
Gus A. Brooks
Sherman E. Carter
C. L. Clayton
T. Fowler Combs
Oris Cooper
John Henry Cox
Rev. W. W. Crouch
Guthrie F. Crowe
Pink G. Curd
Dr. J. A. Duff
Forest C. Easley
John D. Fields
T. P. Fitzpatrick
W. W. Freeman
Joseph J. Grace
A. G. Hamilton, Jr.
E. R. Hilton
Clyde S. Howard
Chas. O. Humston
W. H. Hunt
Joe B. Jarboe, Jr.
Crow Jarvis
William L. Jones
John S. Juett
W. A. Lamkin
H. W. Linville
A. L. Love
William Lovett
Hugh D. Lyon
H. McCartney
Cary McDevitt
Norris McPherson
J. Milton Mefford
D. J. Moore
L. D. Moore
C. E. Montgomery
F. E. Morancy
E. R. Morlidge
C. Sid Nabb
Coy Nevitt
Robert Nicholas
H. C. Patterson
Paul Pelfrey
B. W. Porter
Kleber F. Price
L. Allen Rhoads
Dr. J. J. Rice
Byron H. Royster
Carl Scheben
Faust Y. Simpson
Otto Smither
Charles L. Spilman
James D. Stacey
J. Claude Stacy
R. C. Stephenson
Thomas M. Swope
C. W. Taylor
Egbert Taylor
Roy L. Taylor
Rev. H. Tinsley
John L. Trumbo
Erna E. Tyra
S. J. Wagner
C. R. Walden
Harry Walters
Henry Ward
E. Reed Wilson
Stanley S. Dickson, Speaker
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Mr. Scheben moved that the reading of the Journal of Friday's proceedings be dispensed with.

Said motion was agreed to.

The Speaker read the following communication to the House, viz.:

The Louisville and Jefferson County Legislative Delegation cordially invites the membership of the House and the

Senate and the employees to a stag party Wednesday night, February 25, from 6 p. m. until (?) at the Stag Distillery Club Room.

There will be a delicious lunch served, soft drinks, beer, and other refreshments. There will be a motion picture of the actual attack on Pearl Harbor and five acts of vaudeville by Eddie Martin's Company. Cigars and cigarettes will be furnished.

The Jefferson County Delegation urges everyone to come and enjoy themselves, partake of the wholesome food, refreshing drinks, and enjoy a clean, wholesome vaudeville.

Jefferson County Delegation.

Mr. Royster moved that Miss Mary Whitfield Cox be appointed an Honorary Page of this House.

Said motion was agreed to.

Mr. Royster moved that the privilege of the floor be extended to Mr. E. E. Warren of Dixon, Kentucky.

Said motion was agreed to.

Mr. Bolling moved that the privilege of the floor be extended to Mr. Don Griffith, county attorney of Daviess County.

Said motion was agreed to.

Mr. Barry offered the following resolution, viz.:

House Res. 78. Resolution relating to strikes.

## HOUSE RESOLUTION

WHEREAS, a few days ago this House of Representatives passed a resolution requesting Senator Chandler and Senator Barkley to support in Congress the legislation to prevent picketing, striking, or boycotting and other labor regulation measures; and

WHEREAS, records will show that the Employers' refusal to take contracts until Congress enacted legislation guaranteeing them certain profits, resulted in 150,000,000 man days lost in industry, which is seventy-five times the man days lost by labor, striking for just wages and other causes; and

WHEREAS, records show that the President of the United States in May, 1940, declared that 50,000 airplanes were needed for national defense and in June, 1940, Congress appropriated for 4,000 airplanes. Two months later in August, Secretary of War, Stimson, stated that only thirty-three of these planes had been contracted for; and

WHEREAS, after Congress enacted legislation guaranteeing certain profits in August, in approximately one month thereafter, $540,000,000 worth of planes were contracted for; and

WHEREAS, the President of the United States urged industry to expand in steel production and the steel companies refused, claiming their capacity was adequate. However, November 11, 1941, Mr. A. D. Whiteside, Chief of Iron and Steel Branch, OPM, called to the attention of steel companies that they were thirty days delinquent in requirements; also, Rear Admiral Land, Chairman of United States Maritime Commission, stated that fourteen shipways were idle in October due to delinquency in steel delivery; and

WHEREAS, the records of the United States Department of Labor will show many strikes are caused when employers refuse to abide by voluntary arbitration decisions; therefore be it

RESOLVED, that this General Assembly now in Session authorize and request his Excellency, the Governor of the Commonwealth of Kentucky, to write Senator Barkley and Senator Chandler requesting them, if and when restrictive labor laws are enacted, to insist on a paragraph therein declaring that any employer refusing to take contracts from the Government, refusing to expand their industrial plants, or refusing to abide by voluntary arbitration decisions, be guilty of treason against the United States of America.

Said resolution was adopted.

A message was received from the Senate announcing that they had passed bills which originated in that body, entitled, viz.:

S. B. 82. An Act relating to the powers and duties of the Department of Revenue.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. The Department of Revenue may elect coverage for the employees of any divisions or sections thereof under the Workmen's Compensation Law of this Commonwealth.

Section 2. Any field representative of the Department of Revenue who is authorized to collect taxes or money due the Commonwealth may deposit to his special account as field representative of the Department any money so collected in a State or National bank in this Commonwealth.

He shall within forty-eight (48) hours after making such deposits draw a check or checks payable to the State Treasurer for the full amount of the deposit and mail same to the

Department or transmit same in a manner approved by the Department. Nothing in this section shall be construed as authorizing any field representative of the Department to enforce or cash, even for the purpose of a deposit, any check or other instrument of value payable to the Commonwealth or any agency thereof.

Deposits shall be made in such banks as the Department may by regulation designate, and subject to such further conditions as the Department may prescribe. Any reasonable service charges made by the bank may be paid by the Department from its appropriation as other claims against it are paid.

Section 3. Income tax returns shall be kept for seven (7) years; primary accounting records of tax payments, seven (7) years; and copies of motor vehicle registration receipts, seven (7) years. Records of the Department which are not required by this section or other statutory provisions to be preserved for a fixed period may be kept or disposed of according to the discretion of the Department.

S. B. 167. An Act relating to municipal and county planning and zoning in cities of the first class and counties containing such cities; authorizing any city of the first class and the county in which such city is located to enter into an agreement to regulate the physical development, including planning and zoning, of incorporated and unincorporated territories; authorizing other municipalities in such county to avail themselves of the benefit of this act; authorizing the creation, organization, powers, duties, financing, rules and regulations, and procedure of joint city and county planning and zoning commissions and joint city and county boards of adjustment and appeals, and methods for adoption, recording and enforcement of plans, rules and regulations; providing for the abolishment of existing planning commissions and boards of appeals and authorizing the transfer of their

records; prescribing regulations for subdivision control and the right to keep planned streets free from buildings; authorizing such city or such county, in case such agreement is cancelled and becomes inoperative, to exercise separately, to the extent applicable, the powers with reference to planning and zoning herein granted to them; providing penalties for violations; and providing that, upon the creation and establishment of such joint commissions and joint boards, Sections 3037h-111, 3037h-112, 3037h-113, 3037h-114, 3037h-115, 3037h-116, 3037h-117, 3037h-118, 3037h-119, 3037h-120, 3037h-121, 3037h-122, 3037h-124, 3037h-125, 3037h-126, 3037h-127, 3037h-128, 3037h-129, 3037h-130, 3037h-131, 3037h-132, 3037h-133, 3037h-134, and 3037h-135, of Carroll's Kentucky Statutes, Annotated, (Baldwin's 1936 Revision), shall be and stand repealed, and preserving vested rights and liabilities.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. AUTHORITY TO CREATE A CITY AND COUNTY PLANNING AND ZONING COMMISSION, AND A BOARD OF ZONING ADJUSTMENT AND APPEALS. For the purpose of the promotion of public health, safety, morals and the general welfare, any city of the first class and the county in which such city is located are hereby authorized and empowered to enter into an agreement to regulate the physical development, including planning and zoning, of the incorporated and unincorporated areas under their respective jurisdictions. Said agreement shall be in writing and submitted to the legislative body of such city and the Fiscal Court of such county, for approval or disapproval. If approved, the provisions of this act and said agreement shall become effective upon the adoption thereof by a mutual ordinance and order passed by such legislative body and by such Fiscal Court, respectively, setting forth therein said

written agreement, and authorizing the execution and delivery of same. Thereupon said agreement shall be recorded in the office of the clerk of the county court of such county.

Such city and such county are hereby authorized and empowered to make, adopt, adjust, amend, extend and add to, by appropriate ordinances and orders, joint and comprehensive city and county planning and zoning plans, including rules and regulations for the enforcement thereof; and may jointly create: (1) a joint city and county planning and zoning commission, with the powers and duties and functions hereinafter set forth, which shall be known as "..... (name of such city) and ..... (name of such county) County Planning and Zoning Commission," hereinafter called "Commission", and (2) a joint city and county board of zoning adjustment and appeals with the powers and duties and functions hereinafter set forth, which shall be known as "..... (name of such city) and ..... (name of such county) County Board of Zoning Adjustment and Appeals," hereinafter called "Board."

The agreement aforesaid may contain such terms and conditions, pertinent to the subject matter, as may be deemed by the parties thereto to be appropriate and necessary.

Any other incorporated municipality located in such county may avail itself of the benefits of this act at any time with the consent of such county and such city. Thereafter such other incorporated municipality, and territory within its boundaries, shall be subject to the provisions of this act as set forth in the terms agreed upon.

The fiscal year of said Commission and Board shall begin July 1 and end the next June 30, both inclusive.

Any and all existing planning and zoning plans, ordinances, resolutions or orders, and regulations and restrictions, or amendments thereof, in effect within the respective territorial jurisdictions of such county and such city shall

continue and remain in full force and effect until superseded by new planning and zoning plans, ordinances, resolutions or orders, regulations and restrictions, approved and adopted as herein provided. Upon the appointment of the Commission and Board, all records of any existing planning and zoning commission and board of adjustment and appeals in such county or city shall be transferred to the Commission and the Board, respectively, and the powers and duties of such presently existing planning and zoning commission and board of adjustment and appeals shall cease; but if any such then existing commission shall be nearing the completion of any plan or part thereof, or if any matter is pending before any such then existing board the said transfer of said records and the termination of the powers and duties of such commission or board shall be postponed until the completion of such plan or part thereof or until all such pending matters have been decided. Such postponements, however, shall not exceed a period of more than six months.

SECTION 2. ORGANIZATION OF CITY AND COUNTY PLANNING AND ZONING COMMISSION.

(1) *Appointment and Compensation of Commission.* The Commission, when created, shall be composed of four ex officio members, who shall be the Mayor and the Director of Works of such city and the County Judge and the Road Engineer of such county, and six appointed members, three of whom shall be appointed by the Mayor of such city and three of whom shall be appointed by the County Judge of such county. The three members appointed by the Mayor shall be residents within the corporate boundaries of such city. The three members appointed by the County Judge shall be residents of that portion of the county lying outside of the corporate boundaries of such city. The appointments of the original members shall be made immediately upon this act becoming effective as herein provided. No appointed member shall hold any other public office or position. The terms of

office of ex officio members shall correspond to their respective official tenures. The term of office of each of the appointed members shall be three years, except that the terms of office of the members first appointed by said Mayor and said County Judge, respectively, shall be one each for one year, one each for two years and one each for three years. Upon the expiration of the term of office of any appointed member, his successor shall be appointed within five days by the Mayor or the County Judge, as the case may be. Vacancies occurring otherwise than through the expiration of term of office shall be filled for the unexpired terms only by the Mayor or the County Judge, as the case may be. The members of the Commission shall, before entering upon their duties as such, qualify by taking the necessary oath of office before the County Judge of the County Court of such County. An appointed member may be removed by the appointing officer, the Mayor or the County Judge, as the case may be, for inefficiency, neglect of duty, malfeasance, or improper conduct. The appointing officer shall file with the Commission a written statement setting forth the reasons for such removal.

Each member of the Commission, except ex officio members, shall receive the sum of ten ($10.00) dollars for each meeting of the Commission attended by such member, but no member of said Commission shall be paid more than two hundred and fifty ($250.00) dollars during any fiscal year of the Commission, nor for more than twenty-five meetings held during any fiscal year of said Commission.

(2) *Organization and Rules.* The Commission shall elect, from among appointed members, a Chairman and Vice-Chairman. In the absence of the Chairman, or if and when there is no Chairman, the Vice-Chairman shall act as and have all the powers and duties of the Chairman. The terms of the Chairman and Vice-Chairman shall each be for one year. The Commission shall hold at least one regular meeting in each month. It shall adopt rules and regulations for

the transaction of business and shall keep minutes and records of all of its proceedings, showing its resolutions, transactions, findings and determinations and the vote of each member on each question, or if absent or failing to vote, indicating such fact, all of which shall be immediately filed in the office of the Commission and shall be public records. Both the ex officio members and the appointed members shall be entitled to vote on any subject or matter before the Commission.

In case of a tie vote or deadlock, the Chairman, after such tie vote or deadlock has existed or continued for five days, shall have the power to break said tie vote or deadlock.

(3) *Staff.* The Commission is authorized to employ and appoint and fix reasonable salaries to be paid to such officers and employees as it may deem necessary for its work, whose appointment, promotion, demotion, and removal shall be subject to such rules and regulations not contrary to law as the Commission may adopt, but all salaries and compensation shall be as nearly as practicable comparable with salaries and compensation paid to corresponding or comparable employees or such city and county. The Commission is authorized to employ or contract with planners, engineers, architects, and other consultants for such services as it may require.

(4) *Finances.* The Commission shall and is hereby declared to be the custodian of all funds, both as to said Commission and said Board, received from any and every source for the purposes of carrying out the provisions of this act; and all expenditures of said funds shall be made only by order of said Commission by resolution duly approving same. All expenditures shall be made only by checks drawn by the Commission. The Commission shall cause an annual audit to be made of all its receipts and expenditures by an official of such city or county, or by an auditor or accountant approved by the Mayor of said city and County Judge of said County. The Commission shall annually select a bank or banks for the

current deposits of the Commission's funds for the current operating expenses, which bank or banks shall give and maintain a bond or other form of security to be approved by said Mayor and said County Judge.

Neither the Commission nor the Board shall incur or permit the incurrence of any indebtedness in any manner or for any purpose in an amount exceeding, in any fiscal year of the Commission or Board, the income and revenue provided for such year through the levy of taxes and appropriation of funds by the legislative body of such city and the Fiscal Court of such county for the purposes of this act and other funds derived from any other sources; and any indebtedness contracted in violation thereof shall be void and neither said county nor said city shall be liable therefor.

SECTION 3. ORGANIZATION OF CITY AND COUNTY BOARD OF ZONING ADJUSTMENT AND APPEALS.

(1) *Appointment and Compensation of Board.* The Board, when created, shall consist of five members to be appointed immediately upon this act becoming effective, none of whom shall be a member of the Commission or hold any other public office or public position. One member shall be an architect of not less than ten years professional experience, one shall be a structural engineer of not less than ten years professional experience, one shall be a real estate dealer of not less than ten years experience, and two shall be appointed at large. The Mayor of such city shall appoint the structural engineer, the real estate dealer and one member at large. The structural engineer, the real estate dealer and the member at large, first appointed by the Mayor, shall serve for terms of one, three and four years, respectively. Thereafter the terms of office of such members, shall be four years. The County Judge of such county shall appoint the architect and one member at large. The architect and the member at large, first appointed by the County Judge, shall

serve for terms of four and two years, respectively. Thereafter the terms of office of all such members shall be four years. Upon the expiration of the term of office of any member, the successor to such member shall be appointed within five days, by the Mayor or the County Judge, as the case may be. Vacancies occurring otherwise than through expiration of term of office shall be filled for the unexpired terms only by the Mayor or the County Judge, as the case may be.

The members of the Board shall before entering upon their duties as such, qualify by taking the necessary oath of office before the County Judge of the County Court of such County. Members may be removed by the appointing officer, the Mayor or the County Judge, as the case may be, for inefficiency, neglect of duty, malfeasance, or improper conduct. The appointing officer shall file with the Board a written statement setting forth the reasons for such removal. Each member of the Board shall receive the sum of ten ($10.00) dollars for each of the Board meetings attended by such member, but no member of said Board shall be paid more than two hundred and fifty ($250.00) dollars during any fiscal year of the Board, nor for more than twenty-five (25) meetings held during any fiscal year of said Board.

(2) *Organization and Rules.* The Board shall elect from among its members a Chairman and Vice-Chairman. In the absence of the Chairman, or if and when there is no Chairman, the Vice-Chairman shall act as and have all of the powers and duties of the Chairman. The terms of the Chairman and Vice-Chairman shall each be for one year. The Board shall hold at least one regular meeting in each month. It shall adopt rules and regulations for the transaction of business and shall keep minutes and records of all of its proceedings, showing its resolutions, transactions, findings and determinations, and the vote of each member on each question, or if absent or failing to vote, indicating such fact, all of

which shall be immediately filed in the office of the Board and shall be public records.

(3) *Staff and Finances.* The Board is authorized to employ and appoint and fix reasonable salaries to be paid to such officers and employees as it may deem necessary for its work, whose appointment, promotion, demotion, or removal, shall be subject to such rules and regulations not contrary to law as the Board may adopt, but all salaries and compensation shall be as nearly as practicable comparable with salaries and compensation paid to corresponding or comparable employees of such city and county. Operating expenses of the Board and compensation of Board members shall be paid by the Commission from the Commissions' funds.

SECTION 4. GENERAL POWERS AND DUTIES OF COMMISSION. It shall be the function and duty of the Commission to prepare and approve a comprehensive plan for the physical development of the incorporated and unincorporated areas of the entire county, and to submit and recommend same to said Fiscal Court and to the legislative body of said city for adoption or rejection.

Said comprehensive plan shall show and include (a) a master plan, as defined and provided for in Section 5 of this act; (b) a zoning plan and regulations and restrictions relating thereto, as defined and provided for in Section 8 of this act; and (c) subdivision control regulations and restrictions relating thereto, as defined and provided for in Section 11 of this act.

Such comprehensive plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the incorporated and unincorporated areas of the entire county. The Commission shall make careful and comprehensive surveys and studies of existing conditions and probable future development of the entire territory within said county.

In the preparation of the comprehensive plan, and at all times thereafter, it shall be the duty of the Commission to consult and advise with public officials and agencies, including the City and County Board of Health or its successor or successors, public utility companies, civic, educational, professional and other organizations, and with citizens, regarding the preparation, protection and carrying out of the plan. The Commission, its members, officers, and employees, in the performance of their duties and functions, may enter upon any land and make examinations and surveys, which do not occasion damage or injury to private property. In general, the Commission shall have such powers as may be necessary to enable it to fulfill its duties and functions, to promote municipal and county planning, and to carry out the purposes of this act.

The Commission shall, from time to time, recommend to the appropriate public officials programs for the acquisition of land and the construction of public structures and improvements, and for the financing thereof.

The Commission shall have power to promote public interest in and an understanding of the comprehensive plan, and part and parts thereof, and to that end may publish and distribute copies thereof, or of any report relating thereto, and may employ such other means of publicity and education as it may determine. Members of the Commission and any of its employees, when duly authorized by the Fiscal Court of such county and the legislative body of such city, may attend city or county planning conferences or meetings, or legislative hearings upon pending city or county planning legislation, and the expenses for such attendance shall be borne and paid in the manner provided by such authorization.

SECTION 5. PREPARATION AND ADOPTION OF MASTER PLAN.

(1) The master plan, which is a part of the comprehensive plan, for the development of the territory covered

thereby, with accompanying maps, plats, charts, descriptive and explanatory matter, shall show and include the general location, character and extent of public streets, roads, major streets and arterial highways, viaducts, bridges, waterways and water fronts, parkways, and other public ways, public playgrounds, reservations, parks, airports and other public grounds, places and buildings; the general location and extent of public utilities and terminals, whether publicly or privately owned, for water, light, power, heat, sanitation, transportation, communication, and other purposes; the proposed dedication, widening, removal, extension, relocation, narrowing, vacation, abandonment or change of use of the aforesaid public ways, grounds, places, buildings, properties and utilities or terminals; the general character, location and extent of community centers, town sites or housing developments; the general location and extent of forest and open-development areas for purposes of conservation of food, soil, and water supply, sanitary and drainage facilities, and for the protection of urban and non-urban development.

(2) The Commission may prepare and approve the master plan as a whole, or as the work of making the whole plan progresses may from time to time prepare and approve a part or parts thereof, which part or parts shall be coordinated generally with one or more or all of the functional divisions of the subject matter of the whole plan. Any such part or parts may include such portion or portions of the county as the Commission deems an appropriate territorial unit for such separate treatment by reason of urbanization, municipal boundary lines, the location of sanitary districts or public or semi-public establishments, or other factors affecting the need for the protection of the public welfare.

(3) After the preparation of such master plan, or part of parts thereof, but before approval thereof by the Commission, the Commission shall hold at least one public hearing thereon, notice of the time and place of which shall be given

by the Commission by publishing a notice at least once weekly for two consecutive weeks in a daily newspaper having general circulation throughout such city and county, and by such other means as the Commission may determine. Such notice shall contain all such necessary information as will adequately acquaint the public with the purpose of the plan, or part or parts thereof, as the case may be, the areas affected thereby, and where said plan can be inspected. Within ninety (90) days after any such hearing the Commission shall approve such master plan, or part or parts thereof, as the case may be, as prepared, or the Commission may revise same. If the Commission revises same, it shall hold a hearing on such revised plan, and give notice thereof, in the same manner as provided for the original hearing. And such procedure shall be continued until the Commission has made no further revision of such plan, or part or parts thereof, subsequent to the last hearing thereon. The Commission shall certify, transmit and recommend such approved master plan, or part or parts thereof, as the case may be, to the Fiscal Court of such county and to the legislative body of such city for adoption or rejection by them. Adoption thereof may be by a majority vote of all of the members of such Fiscal Court or such legislative body. Rejection thereof shall be only by a two-thirds (2/3) vote of all of the members of such Fiscal Court or legislative body.

If said master plan, or any part or parts thereof, is rejected by said Fiscal Court or said legislative body, such plan, or part or parts thereof, shall be referred back to the Commission, together with a written statement of (a) the reasons for such rejection and (b) suggested corrections or changes, for further study, revision and recommendation. Thereupon said Commission shall hold further hearings and follow the same procedure as herein above provided until the Commission has made no further revisions thereof, subsequent to the last hearing thereon. The Commission then shall again certify and recommend said plan, or part or parts there-

of, as approved by the Commission, to said Fiscal Court or legislative body, as the case may be, for adoption or rejection in the manner above provided. If same is again rejected the same procedure as above provided shall be followed until such master plan, or part or parts thereof, is adopted.

(4) Certified copies, including all maps, charts and descriptive matter, and all regulations and restrictions, composing said master plan, or part or parts thereof, adopted by said Fiscal Court or said legislative body, shall be filed in the office of the Commission and filed and recorded in the office of the clerk of the county court of such county in a manner easily accessible to the public, and same shall be public records.

SECTION 6. ADJUSTMENT IN MASTER PLAN.

(1) After the original master plan, or part or parts thereof, as the case may be, has been adopted as provided in Section 5 of this act, any adjustment therein or thereto shall become effective only by and through the approval of such proposed adjustment by the legislative body of such city or the Fiscal Court of such county, or both, as the case may be, or by the Commission if and when authorized to do so by said legislative body and said Fiscal Court, and by recording same in the office of the clerk of the county court of such county. After any such proposed adjustment has been approved, the master plan, or part or parts thereof, as the case may be, shall be deemed to be and be the plan, or part or parts thereof, as the case may be, as so adjusted. Said master plan and said adjustments, when approved as provided in this act, shall not be subject to attack in any court in such county inferior to the circuit court thereof.

(2) The Commission may itself propose, or any person, firm, corporation, or any governmental agency, board or body, may propose adjustments in or to the master plan, or part or parts thereof, as the case may be, which proposals shall be

approved or disapproved in the manner authorized by subsection (1) of this Section 6 of this act.

(3) Before any proposed adjustment is approved or disapproved such proposal shall be the subject of a public hearing before the Commission. The Commission shall conduct such public hearing in the manner provided, in subsection 3 of Section 5 of this act, for public hearings on the original master plan, or part or parts thereof. Any person, firm, or corporation, or any governmental agency, board or body, interested and affected by such proposed adjustment may enter his or its appearance before the Commission at or before such hearing, and shall be heard.

(4) If approval of such proposed adjustment or adjustments is by said legislative body or said Fiscal Court, or both, as the case may be, the Commission shall certify and transmit such proposal, together with its recommendations thereon, to said legislative body or Fiscal Court, as the case may be. Thereafter the procedure for approval thereof shall be the same as that provided for the adoption of the master plan as set forth in subsection 3 of Section 5 of this act.

(5) (a) If and when said Fiscal Court and said legislative body authorize the Commission to approve or disapprove proposed adjustments in or to the master plan, or part or parts thereof, as the case may be, the approval or disapproval thereof by the Commission shall be in the manner provided in subsection 6 of this Section 6 of this act.

(b) In approving or disapproving any proposed adjustment in or to the master plan, or part or parts thereof, the Commission shall be guided and governed by the purposes and provisons of this act, and its action shall be particularly in accordance with the provisions and purposes set forth in Sections 4 and 5 of this act, to the end that said master plan, or part or parts thereof, as the case may be, as so adjusted shall accomplish a coordinated and harmonious development

of the incorporated and unincorporated area of the entire county.

(c) If the proposed adjustment is finally approved by the Commission, it shall be recorded as provided in subsection (1) of this Section 6 of this act. If it is finally disapproved by the Commission, the proposed adjustment shall not be recorded and shall have no force or effect.

(6) If the Commission is authorized by said Fiscal Court and said legislative body to approve such proposed adjustment or adjustments:

(a) The Commission, within ninety days after the hearing provided for in subsection 3 of this Section 6 of this act, shall either approve or revise or disapprove such proposal or proposals.

(b) If the Commission revises same, it shall hold a hearing on such proposal as revised, and give notice thereof, in the same manner as provided for the original hearing. And such procedure shall be continued until the Commission has made no further revision thereof, subsequent to the last hearing thereon.

(c) When the Commission has finally approved such proposed adjustment, as submitted or revised, or has disapproved such proposed adjustment, it shall immediately notify in writing all parties of record in such proceeding of its action or decision.

(d) Any person, firm, corporation, organization, public official or governmental agency or department, being a party of record at such hearing, claiming to be injuriously affected or aggrieved by any action or decision by the Commission, may appeal from such action or decision, to the circuit court of such county, and jurisdiction is hereby given to such circuit court to hear and determine all questions and issues properly brought before it on such appeal. An appeal shall stay all

action by all parties of record in the matter appealed from. Such appeals shall be taken within thirty (30) days after notice of such action or decision has been given, as herein provided, by filing in the office of the clerk of the circuit court of such county a statement of appeal, setting forth the action or decision of the Commission appealed from, the date thereof, the reasons for said appeal, and attaching thereto as a part thereof a certified copy of such action or decision, and asking that an order to show cause be issued against and served upon the Commission. But the foregoing remedy shall not be exclusive.

(e) After the appeal is taken the procedure shall be the same as in common law actions, and all parties to the proceeding shall have the right to any and all processes, including subpoena, allowed in other cases in said circuit court. Upon filing an appeal, notice thereof must be immediately given to the Commission and to all parties of record, by actual notice served or by service of summons. Hearings in the circuit court shall be de novo and heard by the Judge, and appeals may be taken from the decision of said circuit court to the Court of Appeals of Kentucky in the same manner as common law cases are appealed.

(f) If the Commission approves such proposed adjustment and no appeal is taken, said approval shall be final. If the Commission approves such proposed adjustment and an appeal is taken and said action or decision is affirmed, or is remanded with directions, then said action of the Commission as affirmed, or as revised or modified in accordance with the Court's decision, as the case may be, shall be final. When the adjustment, as submitted or as revised, as the case may be, is so finally approved, it shall be recorded in the manner provided in subsection (1) of this Section 6 of this act.

(g) If the Commission approves such proposed adjustment and an appeal is taken and said action or decision is reversed and the court disapproves said proposal, said pro-

posed adjustment shall not be recorded and shall have no force or effect.

(h) If the Commission disapproves such proposed adjustment and no appeal is taken, such action shall be final. If the Commission disapproves such proposed adjustment and an appeal is taken and said action is affirmed, such action shall be final. Any proposed adjustment thus finally disapproved shall not be recorded and shall have no force or effect.

(i) If the Commission disapproves such proposed adjustment and an appeal is taken and said action is reversed and the court approves said proposed adjustment or remands the case with directions to revise or modify said proposal, then said proposed adjustment as so approved or as so revised or modified, as the case may be, shall be deemed to be and be finally approved, and shall be recorded as provided in subsection (1) of this Section 6 of this act.

SECTION 7. MASTER PLAN—PUBLIC PROJECTS, AUTHORIZATION AND CONSTRUCTION UNDER.

(1) (a) Upon this act becoming effective, as provided in Section 1 of this act, no public street, public roadway, public parkway, public ground, public place, public building or structure, or public utility, publicly or privately owned, shall be constructed or authorized within the incorporated boundaries of such city or in the unincorporated territory of such county, until and unless the proposed location and extent of such public construction or authorization shall have been approved and authorized by appropriate ordinances, resolutions or orders passed by the legislative body of such city or the Fiscal Court of such county, as the case may be, or by order of the Commission if and when said legislative body and said Fiscal Court, by appropriate ordinances, resolutions or orders, authorize said Commission to so act.

(b) Before any proposed construction or authorization is approved or disapproved such proposal shall be submitted

to and be the subject of a public hearing before the Commission for its recommendations. The Commission shall hold at least one public hearing on any such proposal, notice of which shall be given by the Commission in such manner as will be adequate to inform all parties interested and affected thereby and not less than one week prior to such hearing. Any and all parties interested and affected may enter their appearance before the Commission at or before such hearing, and shall be heard.

(2) If approval of such proposed construction or authorization is made by said legislative body or said Fiscal Court, as the case may be, the Commission shall certify and transmit such proposal, together with its recommendation thereon, to said legislative body or Fiscal Court, as the case may be. Thereafter the proceeding for approval thereof shall be the same as that provided for the adoption of the master plan as set forth in subsection 3 of Section 5 of this act.

(3) (a) If and when said Fiscal Court and said legislative body authorize the Commission to approve or disapprove any such proposed construction or authorization, the Commission shall hold at least one public hearing thereon, adequate notice of which shall be given by the Commission not less than one week prior to such hearing.

(b) Within thirty days after such hearing, the Commission shall either approve or disapprove such proposed construction or authorization. If the Commission approves the proposed construction for authorization, it shall so notify all parties of record and the proposer may proceed to carry out the proposal unless an appeal is taken as granted in paragraph (d) of this subsection 3 of this Section 7 of this act. If the Commission disapproves such proposal, it shall set forth in writing the reasons for its disapproval and notify all parties of record.

(c) In approving or disapproving any proposed construction or authorization, the Commission shall be guided and governed by the purposes and provisions of this act, to the end that said purposes and a coordinated and harmonious development of the incorporated and unincorporated areas may be accomplished and attained.

(d) Any party of record to such proceeding, claiming to be injured or aggrieved by such approval or disapproval, shall have the right to appeal therefrom in the same manner as provided in paragraphs (d) and (e) of subsection 6 of Section 6 of this act with reference to appeals from actions or decisions of the Commission. But the foregoing remedy shall not be exclusive. An appeal shall stay all action by all parties of record in the matter appealed from.

(e) If the Commission's approval is appealed from and is affirmed or remanded with directions, such proposal as approved or as revised in accordance with the court's directions may be carried out. If the Commission's approval appealed from is reversed and the court disapproves same, such proposal shall not be carried out. If reversed with directions, then and in that event the proposer may proceed to carry out the proposal as revised in accordance with the court's decision.

(f) If the Commission's approval is not appealed from, or if appealed from is affirmed, such proposal shall not be carried out. If the Commission's disapproval is appealed from and is reversed or remanded with directions, such proposal as submitted or as revised in accordance with the court's decision may be carried out.

(4) The approval or disapproval of any proposed dedication, widening, removal, extension, relocation, narrowing, vacation, abandonment, use of or change of use of, or acquisition or sale of land for, any public street, public road, public parkway, public ground, public place, public building

or structure, or public utility, publicly or privately owned, shall be subject to the same procedure provided, in this Section 7 of this act, for the approval or disapproval of proposed constructions or authorizations.

SECTION 8. ZONING PLAN AND REGULATIONS —NON-CONFORMING USES—CONFLICTS—SETBACK LINES ON STREETS.

(1) The original zoning plan, which is a part of the comprehensive plan, shall show the boundaries of the various districts and include appropriate regulations and restrictions to be enforced therein to avoid congestion in streets, to secure safety from fire, panic and other dangers, to provide adequate light and air, to prevent the over-crowding of land, to avoid undue concentration of population, to facilitate adequate provision for traffic, transportation, water, sewerage, schools, parks and other public requirements, to encourage the most appropriate use of land throughout such city and county with reasonable consideration to be given to the character of any district and its peculiar suitability for particular uses, and with a view to conserving the value of land, buildings and other structures; and shall be prepared, adopted and recorded in the manner provided in Section 5 of this act, and adjusted in the manner provided in Section 6 of this act, for the preparation, adoption and adjustment of the master plan.

(2) For the aforesaid purposes, the legislative body of such city and the Fiscal Court of such county, respectively, are hereby empowered to regulate, within their respective jurisdictions, the location, height, bulk, number of stories, and size of buildings and other structures, the percentage of lot area which may be occupied by buildings or structures, the size of yards, courts and other open spaces, building setback lines on streets and highways, and the future location and width of streets and highways, the density of population, the erection, use and occupancy of buildings or structures, and

the use of land, for trade, industry or residence, or other purposes. Except as to said setback lines and the future location and width of streets and highways, the foregoing enumeration of powers shall not apply to land and buildings or structures thereon used solely for agricultural, farming, dairying, stock-raising or similar purposes, but if any portion of any such land or any building or structure on such land is used for commercial or business purposes then that portion of the land and any such building or structure shall be subject to all of the above regulations.

Such county and such city may be divided into districts, which may be of such number, shape and area as is deemed best suited to carry out the purposes of this act. Regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts.

(3) Except as otherwise provided herein the lawful use of land for trade, industry or residence, existing at the time of adoption of any zoning regulation or restriction, or at the time of the adjustment or revision thereof, or amendment thereto, although such use does not conform to the provisions of such new regulations or restrictions, may be continued. If such non-conforming use is discontinued for a period of one year, without the owner thereof making a reasonable effort to resume such non-conforming use or to lease such property for the same or a more restricted use, any future use of such land shall be in conformity with the provisions of such then existing zoning regulations or restrictions, and other restrictions running with or pertaining to such land, whether by deed, contract, or otherwise.

(4) Except as otherwise provided herein, the use of a building or structure existing at the time of the adoption of any zoning regulation or restriction, or at the time of any adjustment or revision thereof or amendment thereto, although such use does not conform to the provisions of such new

regulations or restrictions, may be continued, if no structural alterations or additions are made thereto except those required by some law or ordinance other than zoning regulations or restrictions. If no structural alterations or additions are made, a non-conforming use of a building or structure may be changed to another non-conforming use of the same or more restricted classification. If such non-conforming building or structure is removed, damaged, or destroyed to the extent of more than 75% of its reasonable value, or if such non-conforming use is discontinued for a period of one year, without the owner thereof making a reasonable effort to resume such non-conforming use or to lease such premises for the same or a more restricted use, every future use of such premises shall be in conformity with the then existing zoning regulations adopted in accordance with the provisions of this act, and with all other restrictions running with or pertaining to such premises, whether by deed, contract, or otherwise. Nothing herein shall be deemed to prevent the restoration of a building or structure damaged or destroyed to the extent of not more than 75% of its reasonable value, by fire, explosion or other casualty, or the public enemy, or prevent the continued occupancy or use of such building or structure, or part thereof, remaining.

(5) Said zoning regulations and restrictions may contain reasonable provisions for the eventual termination of non-conforming uses either by specifying the period or periods in which non-conforming uses shall be required to cease, or by providing a formula or formulae whereby the compulsory termination of non-conforming uses may be so reasonably fixed as to allow for the amortization of the then investment in the non-conforming property or use. The foregoing provisions shall also apply to non-conforming uses created by subsequent changes in district boundaries.

(6) Whenever said zoning regulations and restrictions require a greater width or size of yards, courts, or other open space, or requires a greater percentage of lot to be left un-

occupied, or imposes other higher standards than are required in or under any other restriction or covenant, the provisions of such zoning regulations or restrictions shall govern. Whenever the provisions of any other restriction or covenant require a greater width or size of yards, courts, or other open space, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by said zoning regulations and restrictions, the provisions of such other restriction or covenant shall govern.

(7) If the owner of a lot does not own any parcel or tract of land immediately adjacent thereto, and if the deed or instrument under which such owner acquired title to such lot was of record in the office of the clerk of the county court of such county prior to the adoption of any subdivision control and zoning regulations and restrictions, adopted pursuant to this act, and if such lot does not conform to the requirements of such regulations and restrictions as to width of lots and lot area per family, nothing herein contained or in such adopted regulations and restrictions shall prevent the owner thereof from erecting or making improvements on said lot which improvements conform in all other respects to such regulations and restrictions.

SECTION 9. ENFORCEMENT OF ZONING REGULATIONS.

(1) The Commission is authorized to appoint and fix the compensation of one or more officers or it may designate one or more officials of such city or county, to be called "Zoning Enforcement Officer", to administer and enforce zoning regulations and restrictions, and to issue zoning permits and certificates of occupancy. The Commission may fix a reasonable schedule of fees for the issuance of such permits and certificates.

(2) It shall be unlawful to erect, construct, reconstruct, alter, or change the use of any building or structure used for trade, industry, or residence, or change the use of land, within

the respective territorial jurisdictions of such city or county, without first obtaining a zoning permit or certificate of occupancy from the Zoning Enforcement Officer. Such officer shall not issue any such permit or certificate unless the plans of and for the proposed erection, construction, reconstruction, alteration, repair or use of structure or buildings and the proposed use of land fully conform with all zoning regulations or restrictions in effect in the location involved.

(3) No such permit for the erection of any building or structure on private property shall be issued unless a street, highway easement, or road, or right-of-way, giving access to the land upon which such proposed building or structure is to be erected has been made a part of the master plan.

(4) It shall be unlawful to erect any building or structure, or improvements or additions thereto, on property lying within a building set back area on any street or highway, existing or proposed, made a part of the master plan. Upon the application to the Zoning Enforcement Officer for zoning permit to erect such building, structure, improvement, or additions thereto within said building set back area, it shall be the duty of such officer to refuse such permit. But if such restriction prevents the yield of a fair return on such property, or where the enforcement regulations and restrictions would result in peculiar and exceptional practical difficulties, or exceptional hardship upon the owners of such property, the applicant for such a permit may appeal from such refusal to the Board of Zoning Adjustment and Appeals for relief in the same manner as provided in Section 10 of this act. Such Board shall hold a hearing on such appeal and in a specific case, where the facts and circumstances warrant, may grant a zoning permit for such building or structure, or improvement or addition thereto, which will as little as practicable increase the cost of widening, establishing or constructing such street or highway, or tend to cause a change in the master plan; and may impose reasonable requirements as a condition of granting such a permit, which requirements

shall inure to the benefit of such county or such city in which such building, structure, improvement or addition is proposed to be located. The hearing by the Board shall be public and upon notice, as in zoning cases, and any decision made by the Board shall be subject to review in the same manner as provided in Section 10 of this Act.

(5) It shall be unlawful to construct in any street or highway any building, structure, improvement, sewer or utility, publicly or privately owned, until and after such street or highway has been made a part of the master plan and until a permit therefor has been duly issued by the proper authority. But the granting or issuing of such permit shall not affect the power of any governmental agency, whose duty it is to make, repair or maintain an existing street, road or highway, or whose duty it may be or will be to construct, repair or maintain the proposed street, road or highway, if and when constructed, (a) to require reimbursement from such permittee for any expenditures made by such agency due to the exercise of such permit, or (b) to determine where and how such sewers, pipes, lines, poles, conduits or other type or character of construction are to be placed in said existing, projected or proposed street, road or highway, or (c) to require that all work and installations shall be done under the supervision of such governmental agency, or any one designated by such governmental agency. The granting or issuing of any such permit shall not in any way affect the right, if any, of any owner of private property to demand and receive compensation from the permittee for damage to such property caused by such use, whether the right to such use as distinguished from such permit, be acquired by purchase, lease, condemnation, or otherwise.

SECTION 10. APPEALS TO AND FROM BOARD OF ZONING ADJUSTMENT AND APPEALS—POWERS AND DUTIES OF BOARD—RIGHTS OF PARTIES AND OTHER PERSONS.

(1) Appeals to the Board may be taken by any person,

firm, corporation, organization, or any governmental official, board, or department, being a party of record, hereinafter called "Appellant", claiming to be injuriously affected or aggrieved by any official action or decision of any Zoning Enforcement Officer. Such appeal shall be taken within thirty (30) days after the Appellant or his agent receives actual notice of the action appealed from, by filing with said officer and with the Board a notice of appeal specifying the grounds thereof, and giving notice of such appeal to any and all parties of record. Said officer shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken and shall be treated as and be the respondent in such further proceedings. At any hearing by the Board any interested person may appear and enter his appearance, and all parties of record may appear in person or by agent or attorney, and shall be given an opportunity to be heard.

(2) An appeal shall stay all action by all parties of record in the matter appealed from, including the Zoning Enforcement Officer, unless said officer, or a party of record, certifies to the Board reasons and facts showing that a stay would cause imminent peril to life or property, or irreparable damage to property. In which event, action shall not be stayed except by an order of the Board or of the Circuit Court of such county, on application or motion and upon good cause shown by any person claiming to be injured or aggrieved by such official action or decision for a stay order and, in either instance, upon at least twenty-four (24) hours written notice to all parties of record, including the Zoning Enforcement Officer, of such application or motion. The said court or Board, as the case may be, shall fix a reasonable time for the hearing of such application or motion, and shall decide same within a reasonable time.

(3) The Board shall have the following powers and duties:

(a) to hold hearings on and hear and decide appeals

taken pursuant to subsection (1) of this Section 10 of this act; to affirm or reverse, in whole or in part, or modify the order, requirement, decision or determination of the Zoning Enforcement Officer, from which the appeal is taken; and to make and enforce, by all lawful means, such order, requirement, decision or determination, with respect to the matter in question, as the Board feels may be just, and to that end the Board, in addition to its other powers, shall have the same powers as the Zoning Enforcement Officer.

(b) To receive and hold hearings on and decide petitions for special exceptions to the requirements of zoning regulations or restrictions, or for the interpretation of zoning district maps, or for decisions upon other special zoning questions upon which the Board is authorized to pass.

(c) To hold hearings on petitions for and to authorize variances from a strict application of any zoning regulation or restriction so as to relieve difficulties or hardships in cases when and where, by reason of exceptional narrowness, shallowness, or shape of a specified piece of property at the time of the enactment of such regulation or restriction, or by reason of exceptional topographical conditions or other extraordinary and exceptional situations or conditions of such piece of property, the strict application of such regulation or restriction would result in peeculiar and exceptional practical difficulties to, or exceptional hardship upon the owner of such property. Such grant of variance shall comply as nearly as possible in every respect with the spirit, intent and purpose of the zoning plan; it being the purpose of this provision to authorize the granting of variations only for reasons of demonstrable and exceptional hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, profit or caprice.

(d) To hold hearings and, in specific and proper cases, to grant relief, as provided for in subsection (4) of Section 9 of this act, in appeals from refusals of the Zoning Enforcement Officer to grant zoning permits to erect buildings and

structures, or improvements or additions thereto, on property lying with any building setback area, or within the boundaries of any proposed street or highway, as the case may be.

(e) All meetings and hearing of the Board shall be open to the public. The concurring vote of a majority of the entire membership of the Board shall be necessary in making any decision. The Board in the exercise and performance of its powers and duties is authorized to subpoena and examine witnesses, and certify official acts and issue appropriate orders. The members of the Board are authorized to administer oaths in relation to matters pending before the Board.

(f) In case of a failure on the part of any person or persons, firm or corporation, or governmental agency, to comply with any lawful order of the Board or with process, or in case of refusal of any witness to testify concerning any matter on which he may be lawfully interrogated, the circuit court or a judge thereof having jurisdiction in such county, may upon application by the Board or any member of the Board, compel obedience to such order or process by proceedings for contempt as in the case of a disobedience of the requirements of a subpoena issued from such court, or the refusal to testify therein.

(g) It shall be the duty of the Board to decide promptly, consistent with justice, all appeals or petitions filed with the Board. The Board shall immediately notify in writing all parties of record of its decision and on demand shall furnish them with copies thereof.

(4) Any party or parties of record, jointly or severally, claiming to be injured or aggrieved by any decision, order or ruling of said Board may appeal from such decision, order or ruling, to the circuit court of such county, and jurisdiction is hereby given to such circuit court to hear and determine all questions and issues properly brought before it on such appeal. Such appeals shall be taken to said circuit court within 30 days after notice of such decision, order or ruling

has been given as required, by giving notice of the appeal to said Board and all other parties of record, and by filing in the office of the clerk of said circuit court a statement of appeal, setting forth the decision, or order, or ruling appealed from, the date thereof, and the reason and grounds for said appeal, and attaching thereto as a part thereof a certified copy of said decision, order, or ruling.

After the appeal is taken the procedure therein shall be the same as provided in paragraphs (d) and (e) of subsection 6 of Section 6 of this act with reference to appeals from actions or decision of the Commission, and the Board and other parties of record shall have the same rights as given therein to the Commission and other parties of record.

(5) No decision, order or ruling either of the Zoning Enforcement Officer or of the Board shall be attacked or questioned collaterally or otherwise in any court in such city or county inferior to the circuit court of such county except by an appeal from such decision, order or ruling, as provided for in this Section 10 of this act.

(6) Nothing contained in this act shall or shall be construed to deprive any person, firm or corporation, taxpayer, or governmental official or agency, claiming to be injured or aggrieved by any action or decision of either the Commission, or the Board, or the Zoning Enforcement Officer, of any right, or to curtail or limit such right, which he or it may have, to proceed by injunction, mandamus, or other appropriate proceeding either in equity or law.

SECTION 11. SUBDIVISION CONTROL REGULATIONS—SUBDIVISION PLATS AND APROVAL THEREOF.

(1) The original subdivision control regulations, which constitute a part of the comprehensive plan, shall provide for: (a) The manner in which subdivision plats shall be submitted to the Commission for approval and how same shall be approved and recorded; (b) the proper arrangement of streets, roads and highways in relation to other existing or

planned streets or highways; (c) adequate and convenient open spaces for traffic, utilities, recreation, light and air, and access for firefighting apparatus; (d) the avoidance of congestion of population by specifying minimum widths and areas of lots; (e) the extent to which streets and other ways shall be graded and improved, and the extent to which water, sewer and other utility mains, piping or other facilities shall be installed as a condition precedent to the approval by the Commission of any subdivision plat; and (f) provisions for the approval of the plat prior to the completion of such improvements and utilities. Said regulations shall be prepared and adopted in the manner provided in Section 5 of this act, and adjusted in the manner provided in Section 6 of this act, for the preparation, adoption and adjustment of the master plan.

(2) When the Commission has been appointed and organized, pursuant to the provisions of this act, any and all subdivision plats shall be filed with and submitted to the Commission for its approval or disapproval. Each subdivision plat shall contain the name and address of the person or persons making the subdivision and applying for approval thereof, and the names and addresses of all owners of property adjoining or adjacent to the property to be subdivided. Any agreement between the parties affected by such subdivision in the nature of a restriction or covenant affecting or applicable to the land in the area within or bordering upon such subdivision shall be filed with and referred to upon the plat, and any restrictions or covenants in prior deeds to such lands shall likewise be referred to upon said plat. Within thirty days after any such application the Commission shall hold a public hearing thereon, and shall, not less than five days before the date fixed for such hearing, send written notices thereof to all persons whose names and addresses are stated on said plat, unless the applicant for such approval and all such persons waive such notice. The Commission shall have the power to fix, or to agree with the applicant and

the adjoining and adjacent property owners upon the use, height, area or bulk requirements or restrictions governing buildings and premises within the subdivision, provided such requirements or restrictions do not authorize the violation of any then existing zoning plan, regulation or restriction. Within thirty (30) days after such hearing the Commission shall approve or disapprove such plat, unless additional time is necessary to enable the Commission to make a thorough investigation of the proposed plat. In which event the Commission may extend such period, but such extension shall not exceed sixty days.

The Commission's approval or disapproval, as the case may be, of any subdivision plat shall be endorced thereon, and written notice theerof shall be given by the Commission to all parties of record. Any person, firm or corporation, being a party of record to such hearing or matter, claiming to be injuriously affected or aggrieved by such action of the Commission may appeal therefrom to the circuit court of such county. Such appeal and the procedure thereafter shall be taken in accordance with and pursuant to the provisions of paragraphs (d) and (e) of subsection 6 of Section 6 of this act for appeals from decisions of the Commission.

If the Commission approves a subdivision plat and no appeal is taken, a copy thereof with the endorsement thereon shall be made a part of the Commission's records; and the Commission shall certify said plat with the approval thereof and transmit same to the applicant subdivider who shall have same recorded as provided in subsection 3 of this Section 11 of this act. If the Commission disapproves a subdivision plat and no appeal is taken, said plat shall not be recorded and shall have no force or effect.

If the Commission approves a subdivision plat and an appeal is taken and said action is affirmed, or is reversed and remanded with directions, then said plat as affirmed, or as modified and revised in accordance with the court's decision, as the case may be, shall be endorsed by the Commission and

made a part of the Commission's records; and the Commission shall certify said plat, endorsed as so approved or so modified and revised, as the case may be, and transmit same to the applicant subdivider who shall have same recorded as herein provided. If said action is reversed and the court disapproves said plat, said plat shall not be recorded and shall have no force or effect.

If the Commission disapproves a subdivision plat and an appeal is taken and said action is affirmed, said subdivision plat shall not be recorded and shall have no force or effect. If such action is reversed and the court approves said subdivision plat, or remands and directs that said plat be modified or revised, then said plat as so approved, or as so modified and revised in accordance with the court's decision, as the case may be, shall be made a part of the Commission's records; and the Commission shall certify said plat, endorsed as so approved or so modified or revised, as the case may be, and transmit same to the applicant subdivider who shall have same recorded as herein provided.

(3) Within thirty days after the approval and certification of a subdivision plat as herein provided it shall be the duty of the applicant subdivider, at his or its own expense, to file said approved plat in the office of the clerk of the county court of such county and cause same to be recorded. The clerk of the county court shall neither receive or record any such plat more than thirty days after its approval and certification, and shall neither receive nor record any plat which has not been approved and certified as provided in this act, nor shall any clerk of the county court either receive or record any deed or mortgage in which the property therein described and conveyed is referred to or described as being a part or parcel of or shown by any plat or map of a subdivision unless said plat or map is duly and properly recorded in said clerk's office. Any clerk violating this provision shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than one hundred

($100.00) dollars and not more than five hundred ($500.00) dollars, and the court in which said clerk is tried and the fine imposed shall by its judgment order the then clerk of the county court to mark and print in large letters on and across the face of such recorded plat or map the words "VOID by order of ..... (name of the court making the order and the date of said order)."

(4) Every subdivision plat approved, certified and recorded as provided herein shall, by virtue of such approval and recording, be deemed to be and be a part of the master plan.

SECTION 12. VIOLATIONS AND PENALTIES.

(1) Except as otherwise herein specifically provided, any person, firm, or corporation violating any provisions of this act or of any ordinance, resolution or order, or adjustment or amendment thereto, passed, adopted or approved under authority of this act, or any lawful order of the Commission or the Board or the Zoning Enforcement Officer, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than ten ($10.00) dollars and not more than one hundred ($100.00) dollars, or imprisoned for not more than twenty days, or both so fined and imprisoned. Each and every day during which such violation continues shall be deemed a separate offense.

(2) In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, maintained or used, or any land is or is proposed to be used, in violation of any provision of this act, the County Attorney of such county or the City Attorney of such city, as the case may be, or any property owner or occupant who would be damaged by such violation, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or other appropriate action to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use.

(3) (a) After the effective date of this act if the applicant subdivider, owning land composing a sub-division, or his agent, transfers or sells or agrees to sell any lot or parcel of land located within such subdivision by reference to, or exhibition of, or by any other use of a plat of such subdivision, before such plat has been approved, filed and recorded, as provided in Section 11 of this act, such owner or agent shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred ($100.00) dollars nor more than three hundred ($300.00) dollars for each lot or parcel so transferred or sold or agreed to be sold; and any such instrument of transfer, sale or contract shall be void and shall not be subject to be recorded, but any and all rights of such purchaser to damages, if any, are hereby preserved.

(b) The description of such lot or parcel by metes and bounds in any contract or instrument of transfer or other document used in the process of selling or transferring same shall not exempt such owner or agent from the penalties provided for in paragraph (a), supra, or deprive the purchaser of any rights or remedies he may otherwise have.

(c) Such county or such city, or any municipality in such county, or any tax payer of such county, affected thereby, as the case may be, may file a petition in the circuit court of such county to enjoin such transfer or sale or agreement, and jurisdiction is hereby given to such circuit court to hear and determine all questions and issues properly brought before it in such proceeding.

(d) Nothing in this subsection (3) of this Section 12 of this act shall prohibit an applicant subdivider, if he has not sold or contracted to sell any lot or parcel of land located in the proposed subdivision, from selling and transferring, prior to final approval thereof by the Commission, all of his or its rights, title and interest in and to such subdivision plan and plat and said land. If such sale and transfer is made, the applicant subdivider shall forthwith give the Commission

written notice of such sale and transfer, stating the date of such sale and the name and address of the purchaser. Thereupon, with reference to said land and subdivision plan and plat, and the proceedings for approval thereof, the said purchaser shall in all respects be substituted for and be treated as the original applicant subdivider and shall be and become subject to all of the provisions of this act relating to subdivision control.

(e) If, prior to final approval of a subdivision plan and plat, the applicant subdivider has sold or contracted to sell any lot or parcel of land, located within any proposed subdivision, in violation of the provisions of this act, and desires to sell and transfer all of his or its then rights, title and interest in and to such subdivision plan and plat and the land embraced therein, he or it may do so by and with the consent of the Commission and upon such reasonable and lawful conditions as the Commission may impose. The purchaser of said rights, title and interests shall be substituted for and be treated as the original applicant subdivider and shall be and become subject to all of the provisions of this act relating to subdivision control.

(f) Nothing in this subsection (3) of this Section 12 of this act shall be construed as prohibiting, preventing or restraining the applicant subdivider, at any time prior to the final approval of such proposed subdivision and plat and after notice in writing to the Commission, from withdrawing his application for approval and abandoning such proposed subdivision plan and plat. Thereafter his rights, title and interest in said land shall be the same as though said land had not been proposed to be subdivided.

SECTION 13. DUTIES OF CITY AND COUNTY ATTORNEYS. In the performance of their duties as herein provided for, the Commission and the Board may request the advice and services of the county attorney of such county or the city attorney of such city, and such services shall be

rendered without compensation from the Commission or Board.

SECTION 14. POWER AND AUTHORITY OF CITY AND COUNTY IN CASE EITHER WITHDRAWS FROM AGREEMENT. If, at any time after such county and such city execute an agreement to create and establish such Commission and such Board, as provided for in Section 1 of this act, either such city, through or by action of its legislative body, or such county through or by action of its Fiscal Court, withdraws from and cancels such agreement, then and in that event in order to carry out the purposes of this act:

(a) The Fiscal Court of such county is hereby authorized and empowered, by appropriate order or orders, (1) to create, for the purposes set forth in this act as they relate to the unincorporated area of such county, a county planning and zoning commission and a county board of zoning adjustment and appeals, the functions, powers and duties of which shall be as nearly as possible comparable to and with the functions, powers and duties of the Commission and Board herein provided for; and (2) to provide for the personnel and staff of such county commission and board, including an enforcement officer, and the appointment, organization and financing thereof, and for appropriate rule, regulations and procedure.

(b) The legislative body of such city is hereby authorized and empowered by appropriate ordinance or ordinances, (1) to create, for the purposes set forth in this act as they relate to such city, a city planning and zoning commission and a city board of adjustment and appeals, the functions, powers and duties of which shall be as nearly as possible comparable to and with the functions, powers, and duties of the Commission and Board herein provided for; and (2) to provide for the personnel and staff of such city commission and board, including an enforcement officer, and the appointment, organization and financing thereof, and for appropriate rules, regulations and procedure.

(c) If and so long as the Fiscal Court fails to create a county planning and zoning commission and county board of zoning adjustment and appeals as provided for in paragraph (a), of this Section 14 of this act, then and in that event, any master plan submitted by the city planning and zoning commission to the legislative body of such city, pursuant to the provisions of paragraph (b) of this Section 14 of this act, for the physical development of such city, shall cover any areas outside of said city's boundaries, including any city of a lower class than first class within any such areas, which, in such commission's judgment, bear relation to the planning of such city; and the territorial jurisdiction of such city planning and zoning commission, with reference to the control of subdivision of land and the uses thereof, shall include all land located in said city and all land lying within five miles of the corporate limits of said city and not located in any other municipality of the first class, except that, in the case of any such non-municipal land lying within five miles of more than one municipality having a planning commission under this act, the jurisdiction of each such municipal planning commission shall terminate at a boundary line equidistant from the respective corporate limits of such municipalities.

SECTION 15. SEVERABILITY. If any phrase, clause, sentence, provision, paragraph, section or part of this act shall be judicially declared to be invalid or unconstitutional, the remaining phrases, clauses, sentences, provisions, paragraphs, sections, or parts thereof shall not be affected thereby, but shall remain in full force and effect.

SECTION 16. REPEAL. When a city and county planning and zoning commission and a city and county board of zoning adjustment and appeals are created and established as provided for in this act, Sections 3037h-111, 3037h-112, 3037h-113, 3037h-114, 3037h-115, 3037h-116, 3037h-117, 3037h-118, 3037h-119, 3037h-120, 3037h-121, 3037h-122, 3037h-124, 3037h-125, 3037h-126, 3037h-127, 3037h-128, 3037h-129, 3037h-130, 3037h-131, 3037h-132, 3037h-133, 3037h-134,

and 3037h-135, of Carroll's Kentucky Statutes, Annotated, (Baldwin's 1936 Revision), shall be and stand repealed, but any and all rights, obligations and liabilities, vested or imposed thereunder or thereby are hereby preserved.

SECTION 17. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, then, upon the taking effect of the Kentucky Revised Statutes, KRS 100.010 shall be treated as amended to read as follows:

As used in KRS 100.320 to 100.830 unless the context requires otherwise:

(1) "Mayor" means the chief executive of the city whether the official designation of his office is mayor, city manager, or otherwise.

(2) "Legislative body" means the chief legislative body of the city, whether it is a board of aldermen, general council, board of commissioners, or otherwise.

(3) "Streets" includes streets, avenues, boulevards, roads, lanes, alleys, viaducts and other ways.

(4) "Subdivision" means the division of a tract of land into two or more divisions for the purpose, whether immediate or future, of sale or of building development, and includes resubdivision.

(5) "County Commissioners" means the chief administrative or legislative body of the county.

(6) "Municipal area" means the surrounding territory which bears relation to the planning and zoning of the city.

(7) "Commission" means planning and zoning commission. KRS 100.020 shall be treated as amended to read as follows:

(1) If regulations made under authority of KRS 100.320 to 100.830 require a greater width or size of yards, courts, or other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied or impose other higher standards than those required in any other statute or local ordinance or

regulation, the provisions of the regulations made under authority of KRS 100.320 to 100.830 shall govern.

(2) If any other statute or local ordinance or regulation requires a greater width or size of yards, courts, or other open space, or requires a lower height of building or less number of stories, or requires a greater percentage of a lot to be left unoccupied, or impose other higher standards than those required by the regulations made under authority of KRS 100.320 to 100.830, the provisions of that statute or local ordinance or regulation shall govern.

(3) (a) KRS 100.320 to 100.490 apply to cities of the second class.

(b) KRS 100.500 to 100.830 apply to cities of the third, fourth, fifth and sixth classes.

KRS 100.030 to 100.310, inclusive, shall stand repealed; subsections (1) and (2) of KRS 100.980 shall be treated as amended to read as follows:

(1) The proper city authorities may bring actions to prevent the use of land or the use, construction, alteration or repair of buildings or structures in violation of KRS 100.500 to 100.600, or of any ordinance or regulation made thereunder.

(2) A city may, by action in the circuit court, enjoin a transfer, or agreement to transfer land, prohibited by subsection (2) of KRS 100.730, or may recover the penalty allowed by subsection (3) of KRS 100.990 by civil action.

And subsection (1), (2) and (3) of KRS 100.990 shall be treated as amended to read as follows:

(1) Any person who violates any of the provisions of KRS 100.500 to 100.600, or any ordinance or regulation made thereunder, is guilty of a misdemeanor.

(2) Any county clerk who violates the provisions of subsection (1) of KRS 100.730 shall be fined not less than one hundred nor more than five hundred dollars.

(3) Any person who transfers or negotiates to transfer any land in violation of the provisions of subsection (2) of KRS 100.730 shall pay to the city a penalty of one hundred dollars for each parcel of land so transferred.

S. B. 150. An Act relating to corrupt practices in primaries and general elections and providing penalties therefor.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. (1) It shall be unlawful for a candidate in any primary or general election to directly or indirectly receive any money, property or other thing of value or the promise thereof in consideration that he will not file a contest proceeding contesting the result of any primary election or general election in which he was a candidate, or to directly or indirectly receive any money, property or other thing of value or promise thereof in consideration that he dismiss a contest proceeding contesting the result of any primary or general election.

(2) It shall be unlawful for a candidate in any primary or general election who has been nominated in a primary election or elected in a final election to directly or indirectly pay any candidate in any primary or general election any money, property or other thing of value or promise to pay same in consideration that no contest be filed against him contesting the result of any primary or general election, and it shall be unlawful for any person who has been nominated in a primary or elected in a general election to directly or indirectly pay any contestant any money, property or other thing of value or promise to pay any money, property or other thing of value in consideration that said contest proceeding in either a primary or general election be dismissed.

(3) It shall be unlawful for any person to directly or indirectly contribute any money, property or other thing of value or promise to contribute same for the purpose of paying any candidate not to file a contest suit or to dismiss a contest suit contesting the result of any primary election or the result of any general election, or to pay a candidate to dismiss a contest proceeding contesting the result of any primary election or the result of any general election.

(4) Any person who violates any of the provisions of subsections (1), (2) or (3) of this section shall be deemed guilty of a violation of the provisions of this Act and shall upon conviction be fined not less than two hundred and fifty dollars nor more than one thousand dollars, and excluded from suffrage for a period of four years.

§ 2. If a person nominated at a primary election is found, in a criminal or civil proceeding, to have violated the provisions of this Act, the judgment in such proceeding shall provide that the nomination of such person is void, and that such person is disqualified from being a candidate for such office at the following general election, and disqualified to hold any public office for a period of four years. If a person elected to an office at a general election is found, in a criminal or civil proceeding, to have violated the provisions of this Act, the judgment in such proceeding shall provide that the election of such person is void and that such person is disqualified from holding the office to which he was elected, and from holding any other public office for a period of four years.

§ 3. (1) If no criminal prosecution has been commenced for a violation of the provisions of this Act by any candidate in a primary or general election and information of violations of the provisions of this Act is furnished to the county attorney as to a primary or general election involving a county or district office within the county, and said information is supported by the affidavit of two or more persons, it

shall be the duty of the county attorney to proceed against the candidate in a primary or an elected officer in the general election by notice and motion for the disqualification of said candidate or elected officer for violations of the provisions of this Act. The proceeding shall be had under the provisions of Chapter 5 of Title X of the Civil Code of Practice, and being sections 445, 446, 447 and 449, and said motion may be made at term time or in vacation, and it shall be the duty of the clerk to docket said motion on the return of the notice to the clerk's office and the filing of the motion, and the clerk shall notify the circuit judge of the pendency of said proceeding and the court shall summarily try the same during the term if the court is in session, or if no court is in session in the county the court shall try said proceeding in vacation. In all proceedings involving an office in a judicial district containing more than one county, the above proceeding shall be instituted and prosecuted by the Commonwealth's attorney.

(2) If the county attorney or the Commonwealth's attorney fails to prosecute an action to disqualify candidates under the provisions of subsection (1) hereof for a period of twenty days, then, and in that event, any qualified elector who is qualified to vote for the candidate or candidates involved may in the name of the Commonwealth of Kentucky on relation of said elector, prosecute the action provided for in subsection (1) hereof. Upon the return of the notice to the circuit court clerk's office having jurisdiction of the proceeding and the filing of the motion provided for herein, the said elector prosecuting said proceeding shall execute a bond before the clerk to the Commonwealth of Kentucky conditioned that he will pay all costs of the proceeding if it finally be dismissed. The clerk shall not docket the proceeding for trial until said bond is executed.

(3) If it is finally adjusted by the court in a proceeding instituted under subsection (1) or subsection (2) hereof that the offending candidate or candidates is guilty of the violation of the provisions of this Act, the judgment of the court

shall be rendered in accordance with the provisions of section 2 hereof.

S. B. 144. An Act relating to prostitution, lewdness and assignation.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

*SECTION 1.* That the term "prostitution" as used in this Act shall be construed to include the giving or receiving of the body for sexual intercourse for hire, and shall also be construed to include the giving or receiving of the body for indiscriminate sexual intercourse without hire. That the term "lewdness" shall be construed to include any indecent or obscene act. That the term "assignation" shall be construed to include the making of any appointment or engagement for prostitution or lewdness or any act in furtherance of such appointment or engagement.

*SECTION 2.* It shall be unlawful to engage in prostitution or to aid or abet prostitution or to procure or solicit any person for the purposes of prostitution, or to keep or set up a huse of ill-fame, brothel, or bawdy house, or to receive any person for the purpose of lewdness, assignation, or prostitution into any vehicle, conveyance, place, structure or building, or to permit any person to remain for the purpose of lewdness, assignation, or prostitution in any vehicle, conveyance, place, structure, or building, or to direct, take or transport, or to offer or agree to take or transport, any person to any vehicle, conveyance, place, structure, or building, or to any other person with knowledge or reasonable cause to know that the purpose of such directing, taking or transporting is prostitution, lewdness, or assignation, or to lease or rent or contract to lease or rent any vehicle, conveyance, place or

structure, or building, or part thereof, knowing or with good reason to know that it is intended to be used for any of the purposes herein prohibited.

*SECTION 3.* Any person violating any provision of this act shall be fined not exceeding $200.00 or confined in the county jail for not more than one year, or both so fined and imprisoned.

*SECTION 4.* This act shall in no wise repeal any laws of the Commonwealth of Kentucky on the subject of prostitution and shall be construed by the courts as supplementary thereto.

S. B. 152. An Act relating to Pharmacy.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Sec. 1. The Kentucky Board of Pharmacy is hereby authorized to examine all persons who now hold certificates as Assistant Registered Pharmacists in Kentucky. Persons who hold such certificates may be licensed to practice pharmacy as full registered pharmacists, upon the payment of the regular examination fee and passing a special examination as prescribed by the Kentucky Board of Pharmacy.

Sec. 2. All persons who are required to pay renewal fees to the Kentucky Board of Pharmacy as registered or assistant registered pharmacists shall not be required to pay such fees during the time such persons are actively serving in the Armed Forces of the United States.

Declaration of an Emergency

WHEREAS a state of National emergency exists, and many registered pharmacists and registered assistant phar-

macists are absent from the State in the service of the United States Armed Forces, and therefore, stand to suffer forfeiture of their registrations; and whereas, the Kentucky Board of Pharmacy should be given authority to protect such persons and as near as possible to the beginning of the calendar year, an emergency is hereby declared to exist and this Act shall become a law and to be effective upon its passage and approval by the Governor.

S. B. 169. An Act to amend and reenact Section 2739m-69 of Carroll's Kentucky Statutes, 1939 Supplement.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 2739m-69 of Carroll's Kentucky Statutes is amended to read as follows:

(a) Penalties.—It shall be a misdemeanor for any person to violate any of the provisions of this Act unless such violation is by this Act or other law of this state declared to be a felony.

(b) Unless another penalty is in this Act or by the laws of this state provided, every person convicted of a misdemeanor for the violation of any provision of this Act shall be punished by a fine of not less than two dollars nor more than five hundred dollars or by imprisonment for not more than six months, or by both such fine and imprisonment.

Section 2. Unless another penalty is provided by law, any person who violates any of the provisions of this Act shall be fined not less than two nor more than five hundred dollars or imprisoned for not more than six months, or both.

Section 3. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section 2 of this Act, rather than section 1 of this Act, shall, upon the

taking effect of the Kentucky Revised Statutes, be substituted in place of subsection (5) of KRS 186.990, and thereafter be treated as an amendment to KRS 186.990 rather than an amendment to section 2739m-69 of Carroll's Kentucky Statutes, 1939 Supplement.

S. B. 173. An Act to amend and reenact section 2062a-21 of Carroll's Kentucky Statutes relating to and to provide for and set out the duties of State Registrar of Vital Statistics.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 2062a-21 of Carroll's Kentucky Statutes be, and the same is hereby, repealed, amended and reenacted so that when so amended, repealed and reenacted the same shall read as follows:

"That the State Registrar shall, upon request, furnish any applicant a certified copy of the record of any sickness or death registered under the provisions of this Act, or a certified statement of any birth registered under this Act, which latter statement shall set out the name of the person born, together with the date and place of birth, and the citizenship of said child or person born and no other fact. For the making of the foregoing certification the Registrar shall be entitled to a fee of fifty cents, to be paid by the applicant. Likewise upon request the State Registrar shall furnish to any applicant a certified copy of the full and complete birth certificate required by law, to be filed with the State Bureau of Vital Statistics, for the making and certification of which said Registrar shall be entitled to a fee of One Dollar, to be paid by the applicant. Any such statement or copy, when properly certified by the State Registrar to be correct and accurate, shall be prima facie evidence in all courts and other places of the facts therein stated. For any search of the

files and records when no certified copy or statement is made, the Registrar shall be entitled to a fee of fifty cents for each hour or fractional hour of time of search, to be paid by applicant. The State Registrar shall keep a true and accurate account of all fees by him received under these provisions and turn the same over to the State Treasurer; provided that in cities of the first and second classes the certified statements or copies above referred to may be furnished by the local health authorities. The fee for copy or statement or search of record to be the same as hereinabove provided for, and all such fees shall be paid to the Treasurer of said cities. And provided, further, that no fee or compensation shall be allowed or paid for furnishing certificates of birth, sickness or death which may be required in support of any claim for compensation, insurance, back pay, or other allowances which have been or may be enacted for the benefit of any person or persons who have at any time served as a member of the army, navy, or marine corps of the United States of America.

S. B. 155. An Act to amend Section 3662a-3 of Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That Section 3662a-3 of Kentucky Statutes, Carroll's 1936 Edition, be amended to read as follows:

Section 3662a-3. Defense may be made to the petition by any voter of the town, and if a defense is made the court shall hear and determine the same and may render judgment dissolving and annulling the charter. The pleadings and practice, except as herein provided, shall be the same as in equity cases; an appeal shall be from the judgment, provided the record is filed in the clerk's office of the Court of Appeals

twenty days prior to the second term of the Court of Appeals after the rendition of the judgment.

Whenever the charter of any town is dissolved in the manner hereinabove provided, the judgment shall direct the clerk of the circuit court wherein such judgment is rendered, to certify a copy of said judgment not later than ten days thereafter to the Secretary of State whose duty it shall be to properly index and file the same as a permanent record in his office.

Section 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of subsection (3) of KRS 88.020, and shall thereafter be treated as an amendment to subsection (3) of KRS 88.020 rather than an amendment to section 3662a-3 of Carroll's Statutes.

S. B. 154. An Act to amend Section 3715 of Carroll's Kentucky Statutes, 1936 edition.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Section 3715 of Carroll's Statutes, 1936 edition, be amended to read as follows:

On the second day of the term the court shall, if the proper notice has been given or publication made, and no defense is interposed, enter a judgment establishing a town in accordance with the prayer of the petition, naming it and describing the boundary thereof by metes and bounds, and appointing therefor not less than five trustees, a police judge, marshal and assessor, who shall hold their respective offices until the next election at which officers for cities and towns

may be elected. Defense may be made to the petition by any inhabitant of the proposed town, and if defense is made, the court shall hear and determine the same, and render a judgment establishing or refusing to establish a town, as may seem proper. But if the court shall be satisfied that the population within the prescribed boundary is sufficient, and the proper notice or publication has been made or given, it shall have no discretion as to the establishment of the town. The pleadings and practice, except as herein provided, shall be the same as in equity causes, but no appeal shall lie from the judgment.

Whenever any town shall be established in the manner above provided, the court shall in the judgment direct the clerk of the court wherein such judgment is entered to, not later than ten days thereafter, certify a copy thereof to the Secretary of State, whose duty it shall be to properly index and file the same as a permanent record in his office.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 81.060, and shall thereafter be treated as an amendment to KRS 81.060 rather than an amendment to § 3715 of Carroll's Statutes.

S. B. 168. An Act relating to pleading and practice in civil actions; amending §§ 89, 98, 111, 113 and 126 of the Civil Code of Practice, and repealing §§ 99, 100 and 101 of the Civil Code of Practice.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 89 of the Civil Code of Practice is amended to read as follows:

*Pleadings allowed.* The pleadings allowed are—

1. *Petitions, answers and replies.* Petitions, answers and replies.

2. *Demurrers.* Demurrers.

§ 2. Section 98 of the Civil Code of Practice is amended to read as follows:

*Reply may contain; what.* A reply may contain—

1. *Traverse.* A traverse.

2. *Facts constituting estoppel or avoidance.* A statement of facts which constitute an estoppel against, or avoidance of, a set-off, counter claim or defense stated in the answer.

All affirmative allegations in a reply shall stand traversed of record.

§ 3. Section 111 of the Civil Code of Practice is amended to read as follows:

*Pleading that may be made cross-petition; set-off; counter-claim.* No pleading, except an answer to an original petition, shall be made a cross-petition, or present a set-off or counter-claim

§ 4. Paragraph 7 of Section 113 of the Civil Code of Practice is amended to read as follows:

*Traverse defined; denial of knowledge or information.* A traverse is a denial, by a party, of the facts alleged in an adverse pleading, if they be presumptively within his knowledge; or a denial of them, or a denial that he has sufficient knowledge or information to form a belief concerning them, if they be not presumptively within his knowledge. It shall be a sufficient traverse to state that all the affirmative allegations of the adverse pleading are specifically denied, except those specifically admitted in the pleading containing the traverse.

§ 5. Section 126 of the Civil Code of Practice is amended to read as follows:

*Allegations not denied admitted; exceptions.* Every material allegation of a pleading must, for the purpose of the action, be taken as true, unless traversed, as provided in paragraph 7 of § 113, except these, which must be proved though not traversed:

1. *Allegations against defendant under disability.* Allegations of a petition, or cross-petition, against a defendant who is under any disability except coverture.

2. *Allegations of answer; seeking recovery against new party.* Allegations of an answer, or reply, so far as it states a set-off or counter-claim against a new party who is under any disability except coverture.

3. *Against defendant constructively summoned.* Allegations against a defendant constructively summoned, who has not appeared in the action.

4. *Concerning value or amount of damages.* Allegations concerning value or amount of damage, not accompanied by an allegation of an express promise, or by a statement of facts showing an implied promise, to pay such value or damage; such allegations, so accompanied, need not be proved unless traversed.

§ 6. Sections 99, 100 and 101 of the Civil Code of Practice are repealed.

S. B. 163. An Act providing for the payment of salaries of clerks of the respective courts, of sheriffs and of jailers in counties having a population of 75,000 or more and of their deputies and necessary office expenses not to exceed 75 per cent of the fees collected by said officers and covered into the state treasury; and providing for the payment to the fiscal courts of the respective counties of 25 per cent of the fees collected by said officers, respectively, and covered into the treasury.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

In counties having a population of 75,000 or more, the salaries of the clerks of the respective courts thereof, of sheriffs and of jailers and of their deputies and all necessary office expenses, including the equipping, furnishing, maintaining and operation of said offices, shall be paid out of the state treasury in amounts not to exceed 75 per cent of the fees collected by said officers respectively, and received into the treasury; and 25 per cent of the fees so collected by said officers respectively, and received into the state treasury shall be paid in the manner provided by law for the payment of other claims against the state to the fiscal courts of said respective counties. Said amount of 25 per cent of said fees collected by said officers respectively during each calendar year shall be paid to the fiscal courts of the respective counties by April 1 of each year succeeding the calendar year during which said fees were received by the Department of Finance.

This act shall become effective on July 1, 1944, and shall apply only to fees properly received into the custody of the said officers on and after that date.

S. Res. 46. A Joint Resolution authorizing the Fiscal Court of Bell County to pay to Charles H. Minton, Chief of Police, of Middlesboro, Kentucky, the sum of seven hundred ($700.00) dollars for services rendered by him to the county in the matter of the capture of one Clyde Buchanan, an outlaw, who had shot and killed the Chief Deputy Sheriff of Bell County and who had shot and wounded officers of said county.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

THAT the Fiscal Court of Bell County, Kentucky, be, and it is hereby, authorized and empowered to pay to Charles

H. Minton, Chief of Police of Middlesboro, Kentucky, the sum of seven hundred ($700.00) dollars for services rendered by him to said county in the matter of the capture of one Clyde Buchanan, an outlaw, who had shot and killed the Chief Deputy Sheriff of Bell County and who had wounded other officers of said county.

The Fiscal Court of Bell County is authorized to direct the Treasurer of said County to draw his warrant in favor of said Charles H. Minton for the said sum of $700.00.

S. Res. 12. A Joint Resolution authorizing David C. Lewis to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

THAT David C. Lewis is authorized to sue the Commonwealth of Kentucky in the Morgan Circuit Court for damages resulting from property damage caused by alleged negligence on the part of an employee of the Commonwealth of Kentucky while said employee was in the line of duty as an employee of this Commonwealth.

SAID suit shall be for a sum not in excess of $1000.00. The Attorney General of the Commonwealth of Kentucky may investigate the claim against the Commonwealth herein and settle said claim before or after suit is filed, if he deem it advisable. Any amount recovered in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

IN the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

NO statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

S. Res. 11. A RESOLUTION authorizing Billy Ray Guess and Lucy Guess to sue the Commonwealth of Kentucky and the State Highway Commission, either or both.

Whereas, Billy Ray Guess and Lucy Guess on March 16, 1941 were injured and the automobile of Billy Ray Guess destroyed by reason of the fact that while the above mentioned persons were driving an automobile along the Knob Lick Pike in Lincoln County, Kentucky, they ran over an abutment of a bridge which had been removed and the Highway Department had carelessly and negligently failed to erect signs notifying the above named persons and other persons using said road of the fact that the bridge had been removed;

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That Billy Ray Guess and Lucy Guess are hereby authorized and permitted to sue the Commonwealth of Kentucky and the State Highway Commissioner, both or either of them, in the Circuit Court of Lincoln County, Kentucky, for such damages as they or either of them suffered by reason of personal injury or injuries or property damage, brought about through the carelessness and negligence of the State Highway Commissioner, the Rural Highway Commissioner, its or their agents, or employees. In the event any judgment is recovered by Billy Ray Guess or Lucy Guess in any such suit or suits for the personal injuries or property damages or the same is compromised or settled, the same shall be paid by the

Commissioner of Finance by warrant or warrants drawn on the State Treasurer and paid out of the General Fund. Either party to said suit may appeal from any such judgment which may be rendered as in any other civil suit and the case or cases may be settled, compromised or adjusted with the consent and approval of the Attorney-General of Kentucky in the same way or manner of any other civil suit.

Anything contained in this Resolution shall not be considered by either the Court or the jury as substantive evidence on the merits of the alleged claim and the court shall instruct the jury that the resolution authorizing this suit or suits shall not be considered as an admission by the Commonwealth of Kentucky or any of its agencies of any liability on the part of the Commonwealth of Kentucky or any of its agencies, nor an admission that any verdict of any kind whatsoever shall be rendered for the plaintiff or plaintiffs.

Provided that the amount sued on, for personal injuries shall not exceed the sum of two hundred fifty ($250.00) dollars each for Billy Ray Guess and Lucy Guess and that the amount sued on for property damage shall not exceed the sum of two hundred ($200.00) dollars.

S. Res. 25. A Joint Resolution authorizing the personal representatives of the estates of William Flannery, Grant Judd, and Augustus Mainous to sue the Commonwealth of Kentucky:

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

THAT the personal representatives of the estates of William Flannery, Grant Judd, and August Mainous are each is/are authorized to sue the Commonwealth of Kentucky in Owsley Circuit Court for damages resulting from personal

injury personal injuries causing death and damages to the estate of each (or property damage) caused by alleged negligence on the part of employees of the Commonwealth of Kentucky while said employees were in the line of duty as employees of this Commonwealth.

Said suits each shall be for a sum not in excess of $10,000.00.

The Attorney General of the Commonwealth of Kentucky may investigate the claim (or claims) against the Commonwealth herein and settle said claim (or claims) before or after suit is filed, if he deems it advisable. Any amount recovered in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

S. Res. 22. A Joint Resolution authorizing the personal representative of the estate of George McDonald to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

THAT the personal representative of the estate of George McDonald is/are authorized to sue the Common-

wealth of Kentucky in Lewis Circuit Court for damages resulting from personal injury (or property damage) caused by alleged negligence on the part of an employee of the Commonwealth of Kentucky while said employee was in the line of duty as an employee of this Commonwealth.

Said suit shall be for a sum not in excess of $9,000.00.

The Attorney General of the Commonwealth of Kentucky may investigate the claim (or claims) against the Commonwealth herein and settle said claim (or claims) before or after suit is filed, if he deems it advisable. Any amount recovered in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

S. Res. 44. A Joint Resolution authorizing R. J. McLIN, LILLIE McLIN TO SUE THE COMMONWEALTH OF KENTUCKY AND THE DEPARTMENT OF HIGHWAYS OF KENTUCKY.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

THAT R. J. McLin, Lillie McLin are authorized to sue the Commonwealth of Kentucky and the Department of High-

ways of Kentucky in the Wolfe Circuit Court for damages resulting from injury caused to lands owned by them and located in Wolfe County, Kentucky, caused by alleged negligence upon the part of the Commonwealth of Kentucky and the Department of Highways of Kentucky, while their employees were building, constructing and maintaining a right of way State Highway, and bridge across Red River on Route No. 191 leading from Stillwater Creek in Wolfe County to Mize in Morgan County, Kentucky, and while said employees were engaged in the line of duty as employees of this Commonwealth and its Department of Highways.

Said suit shall not be for a sum in excess of $1,000.00.

The Attorney General of the Commonwealth of Kentucky may investigate said claim against the Commonwealth herein, and settle said claim before or after suit is filed, if he deems it advisable. Any amount recovered in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the court or a jury as an admission of negligence upon the part of the Commonwealth or its Department of Highways and this resolution shall not be introduced as evidence nor commented upon by counsel in argment to the jury.

S. Res. 14. A Joint Resolution authorizing F. F. ROBBINS of Brodhead, Kentucky TO SUE THE COMMONWEALTH OF KENTUCKY.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

THAT F. F. ROBBINS, BRODHEAD, KENTUCKY, is authorized to sue the Commonwealth of Kentucky in ROCKCASTLE Circuit Court for damages resulting from property damage caused by alleged negligence on the part of an employee of the Commonwealth of Kentucky while said employee was in the line of duty as an employee of this Commonwealth.

Said suit shall be for a sum not in excess of $1,000.

The Attorney General of the Commonwealth of Kentucky may investigate the claim against the Commonwealth herein and settle said claim before or after suit is filed, if he deems it advisable. Any amount recovered in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

S. Res. 18. A Joint Resolution authorizing Mrs. Cornie Burk to sue the Commonwealth of Kentucky and the State Highway Commission of the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That Cornie Burk is hereby authorized to sue the Commonwealth of Kentucky and the State Highway Commission

of Kentucky in Harlan Circuit Court, County of Harlan, for damages resulting in property damages caused by alleged neglience on the part of an employee of the Commonwealth of Kentucky while said employee was in the line of duty as employee of this Commonwealth and the State Highway Commission of the Commonwealth of Kentucky upon the ground of negligence in not removing from the right-of-way loose rock hanging over and above said highway and which suddenly fell upon and destroyed her International motor truck set out in the affidavits attached hereto.

Said suit shall be for a sum not in excess of Five Hundred Eighty-Six ($586.00) Dollars.

No plea of limitation shall be interposed.

The Attorney General of the Commonwealth of Kentucky may investigate this claim against the Commonwealth and the State Highway Commission of the Commonwealth of Kentucky herein and settle said claim before or after suit is filed, if he deems it advisable. Any amount recovered in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commission of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon the part of the Commonwealth nor the State Highway Commission of the State of Kentucky, and this resolution shall not be introduced as evidence nor commented upon by counsel in argument to the jury.

S. Res. 19. A Joint Resolution authorizing Sam Blumberg to sue the Commonwealth of Kentucky and the State Highway Commission of the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

THAT WHEREAS, the said Sam Blumberg is authorized to sue the Commonwealth of Kentucky and the State Highway Commission of the Commonwealth of Kentucky in the Harlan Circuit Court, Harlan County, Kentucky, for damages resulting from personal injury and property damages caused by alleged negligence on the part of an employee of the Commonwealth of Kentucky and while he was in the line of duty as an employee of this Commonwealth and because of the conditions and neglect hereinafter set out.

Said suit shall be for a sum not in excess of Twenty-Four Hundred and Fifty ($2450.00) Dollars.

No plea of limitation shall be interposed.

The Attorney General of the Commonwealth of Kentucky may investigate this claim against the Commonwealth and the State Highway Commission of the Commonwealth of Kentucky herein and settle said claim before action is filed, if he deems it advisable. Any amount recovered in said suit by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered either by the Court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by a counsel in argument to the jury.

S. Res. 26. A Joint Resolution authorizing Edgar Raybourne, an infant, of Emerson, Kentucky TO SUE THE COMMONWEALTH.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

THAT Edgar Raybourne, an infant, be, and he is authorized to sue the Commonwealth of Kentucky in Carter Circuit Court for damages resulting from personal injury (or property damage) caused by alleged negligence on the part of an employee of the Commonwealth of Kentucky while said employee was in the line of duty as an employee of this Commonwealth.

Said suit shall be for a sum not in excess of $500.00.

The Attorney General of the Commonwealth of Kentucky may investigate the claim (or claims) against the Commonwealth herein and settle said claim (or claims) before or after suit is filed, if he deems it advisable. Any amount recovered in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

S. Res. 27. A Joint Resolution authorizing Mabel Ray-

bourne of Upper Tygart, Kentucky, to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

THAT Mabel Raybourne be, and she is authorized to sue the Commonwealth of Kentucky in Carter Circuit Court for damages resulting from personal injury (or property damage) caused by alleged negligence on the part of an employee of the Commonwealth of Kentucky while said employee was in the line of duty as an employee of this Commonwealth.

Said suit shall be for a sum not in excess of $2200.00.

The Attorney General of the Commonwealth of Kentucky may investigate the claim (or claims) against the Commonwealth herein and settle said claim (or claims) before or after suit is filed, if he deems it advisable. Any amount recovered in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

S. Res. 28. A Joint Resolution authorizing Waldo Raybourne, an infant, of Upper Tygart, Kentucky, to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

THAT Waldo Raybourne, an infant, be and he is authorized to sue the Commonwealth of Kentucky in Carter Circuit Court for damages resulting from personal injury (or property damage) caused by alleged negligence on the part of an employee of the Commonwealth of Kentucky while said employee was in the line of duty as an employee of this Commonwealth.

Said suit shall be for a sum not in excess of $500.00.

The Attorney General of the Commonwealth of Kentucky may investigate the claim (or claims) against the Commonwealth herein and settle said claim (or claims) before or after suit is filed, if he deems it advisable. Any amount recovered in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

S. Res. 29.—A Joint Resolution authorizing the Carter County Board of Education to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

THAT THE CARTER COUNTY BOARD OF EDUCATION is authorized to sue the Commonwealth of Kentucky in Carter Circuit Court for damages resulting from personal injury (or property damage) caused by alleged negligence on the part of an employee of the Commonwealth of Kentucky while said employe was in the line of duty as an employee of the Commonwealth.

Said suit shall be for sum not in excess of $600.00.

The Attorney General of the Commonwealth of Kentucky may investigate the claim (or claims) against the Commonwealth herein and settle said claim (or claims) before or after suit is filed, if he deems it advisable. Any amuont recovered in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

S. Res. 31. A Joint Resolution authorizing W. T. Clayton of Webster County, Kentucky, to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

THAT W. T. Clayton of Webster County is/are authorized to sue the Commonwealth of Kentucky in Webster Circuit Court for damages resulting from personal injury (or property damage) caused by alleged negligence on the part of an employee of the Commonwealth of Kentucky while said employee was in the line of duty as an employee of this Commonwealth.

Said suit shall be for a sum not in excess of $2500.00.

The Attorney General of the Commonwealth of Kentucky may invesigate the claim (or claims) against the Commonwealth herein and settle said claim (or claims) before or after suit is filed, if he deems it advisable. Any amount recovered in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the even suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

S. Res. 32. A Joint Resolution authorizing Mrs. Alverda Brown, Rockport, to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

THAT Mrs. Alverda Brown, Rockport, Ky., is/are authorized to to sue the Commonwealth of Kentucky in Ohio Circuit Court for damages resulting from personal injury (or

property damage) caused by alleged negligence on the part of an employee of the Commonwealth of Kentucky while said employee was in the line of duty as an employee of this Commonwealth.

Said suit shall be for a sum not in excess of $500.00.

The Attorney General of the Commonwealth of Kentucky may investigate the claim (or claims) against the Commonwealth herein and settle said claim (or claims) before or after suit is filed, if he deems it advisable. Any amount recovered in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

S. Res. 34. A Joint Resolution authorizing Mrs. Mary Littles to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

THAT Mrs. Mary Littles is/are authorized to sue the Commonwealth of Kentucky in Bell Circuit Court for damages resulting from personal injury (or property damage) caused by alleged negligence on part of an employee of the Commonwealth of Kentucky while said employee was in the line of duty as an employee of this Commonwealth.

Said suit shall be for a sum not in excess of $5,000.00.

The Attorney General of the Commonwealth of Kentucky may investigate the claim (or claims) against the Commonwealth herein and settle said claim (or claims) before or after suit is filed, if he deems it advisable. Any amount recovered in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

S. Res. 35. A Joint Resolution authorizing William Fuson, Administrator of the estate of Maggie Fuson to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

THAT William Fuson, Administrator of the estate of Maggie Fuson is/are authorized to sue the Commonwealth of Kentucky in Bell Circuit Court for damages resulting from personal injury (or property damage) caused by alleged negligence on the part of an employee of the Commonwealth of Kentucky while said employee was in the line of duty as an employee of this Commonwealth.

Said suit shall be for a sum not in excess of $10,000.00.

The Attorney General of Commonwealth of Kentucky may investigate the claim (or claims) against the Commonwealth herein and settle said claim (or claims) before or after suit is filed, if he deems it advisable. Any amount recovered in said suit or by settlement wth the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

S. Res. 36. A Joint Resolution authorizing Willie Littles to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

THAT Willie Littles is/are authorized to sue the Commonwealth of Kentucky in Bell Circuit Court for damages resulting from personal injury (or property damage) caused by alleged negligence on the part of an employee of the Commonwealth of Kentucky while said employee was in the line of duty as an employee of this Commonwealth.

Said suit shall be for a sum not in excess of $250.00.

The Attorney General of the Commonwealth of Kentucky may investigate the claim (or claims) against the Commonwealth herein and settle said claim (or claims) before or after suit is filed, if he deems it advisable. Any amount recovered

in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

S. Res. 38. RESOLUTION authorizing Hubbard & Curry, incorporated, to sue the Commonwealth of Kentucky, Kentucky House of Reform, and Eastern State Hospital.

Said resolution is as follows, viz.:

WHEREAS, Hubbard & Curry, Incorporated, has sold to the Kentucky House of Reform, drugs and other merchandise, and

WHEREAS, there is a balance due on the account of $237.68, and

WHEREAS, Hubbard & Curry, Incorporated, sold drugs and other medicines to the Eastern State Hospital and the balance due on said account is $58.75, and

WHEREAS, Hubbard & Curry, Incorporated, has made demands on the State for said payments.

*Therefore, be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That Hubbard & Curry, Incorporated, be, and it is hereby authorized and permitted to sue the Commonwealth of Kentucky and the Eastern State Hospital in the Fayette Circuit Court for the sum of $58.75.

Be it further resolved that Hubbard & Curry, Incorporated, be, and it is hereby authorized and permitted to sue the Commonwealth of Kentucky and the Kentucky House of Reform in the sum of $237.68 in the Fayette Circuit Court.

S. Res. 39. A Joint Resolution authorizing Louis Crutcher of Franklin County to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That Louis Crutcher of Franklin County, Kentucky, is hereby authorized to sue the Commonwealth of Kentucky in the Franklin Circuit Court for the loss of certain personal property of a large oil painting, destroyed when Dupont Lodge at Cumberland Falls, in the Commonwealth of Kentucky, burned at a time when said picture was in the custody of State Parks, and such loss was incurred by reason of a negligence caused by reason of alleged negligence on the part of the State Park Commission, of the Commonwealth of Kentucky, acting in the course of its duties and on the part of employees of the Commonwealth of Kentucky while in line of their duty in the Commonwealth of Kentucky.

Said suit shall be for a sum not in excess or *$500.00.*

The Attorney General of the Commonwealth of Kentucky may investigate the claim against the Commonwealth herein and settle said claim before or after suit is filed, if he deems it advisable. Any amount recovered in said suit or by settlement with the Attorney General shall be paid out of the General Fund upon warrant drawn by the Commissioner of Finance upon the State Treasurer.

In the event suit is filed and judgment rendered by the

Circuit Court, either party may appeal to the Court of Appeals of Kentucky.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

S. Res. 40. A RESOLUTION authorizing W. G. Tate and Wanda Tate to sue the Commonwealth of Kentucky and/or the State Highway Commission.

WHEREAS, W. G. Tate and Wanda Tate are the owners of a certain tract of land abutting on the south side of U. S. Highway No. 60, just outside the city limits of Frankfort, Franklin County, Kentucky; and,

WHEREAS, the Commonwealth of Kentucky and/or the State Highway Commission has caused to be erected in front of the property of the owners herein named, a new grade of U. S. Highway No. 60, resulting in a fill 11½ feet high at the west end of said property and tapering down to grade at the east end of said property, and which highway is used for purposes of travel; and now, therefore,

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

1. That W. G. Tate and Wanda Tate be and they are hereby empowered and authorized to file and prosecute appropriate action against the Commonwealth of Kentucky and/or State Highway Commission, or either of both of them in the Franklin Circuit Court for the purpose of determining the extent, if any, of the damages resulting to the property of the owners caused by reason of the construction of the new road and fill aforesaid, if any there be.

2. Said suit shall be for a sum not to exceed $2,000.00.

3. In the event any judgment is recovered by the said W. G. Tate and Wanda Tate or any compromise agreement or settlement is made, same shall be paid by the Commissioner of Finance by warrant drawn on the State Treasurer of the Commonwealth of Kentucky and paid out of the general fund.

4. Either party to such suit may appeal from any judgment which may be entered in said action as in any other civil suit, and such case may be settled, compromised or adjusted with the consent and approval of the Attorney General of Kentucky in the same manner as any other suit.

Nothing contained in this Resolution shall be considered by either the Court or jury as substantive evidence on the merits of the allaged damages, and the Court shall instruct the jury that the Resolution authorizing this suit shall not be considered as an admission by the Commonwealth of Kentucky or any of its agencies, of any damage done on the part of the Commonwealth of Kentucky or any of its agencies by reason of the construction of said road and fill, nor as an admission that any verdict of any kind whatsoever shall be rendered for the plaintiff.

Ordered that said bills and resolutions be printed and referred

To Committee on Rules.

And that they had passed bills and resolutions which originated in this House, entitled:

H. B. 219. An Act authorizing clerks, sheriffs and jailers who are required to pay their fees into State Treasury to require depositories to execute bonds, etc.

H. B. 144. An Act to regulate the practice of dental hygiene.

H. B. 163. An Act relating to the licensing of ferries.

H. Res. 39. Resolution authorizing Lieutenant Ethon L. Stone to sue the Commonwealth.

H. Res. 55. Resolution authorizing O. H. Stumbo to sue the Commonwealth.

H. Res. 49. Resolution authorizing Betty Ann Howell to sue the Commonwealth.

H. Res. 54. Resolution authorizing personal representative of John W. Caudill to sue the Commonwealth.

H. Res. 36. Resolution authorizing Jeff Bilyeu to sue the Commonwealth.

H. Res. 19. Resolution authorizing Harold Gorin to sue the Commonwealth.

H. Res. 38. Resolution authorizing Marion Crider to sue the Commonwealth.

H. Res. 42. Resolution authorizing John D. Fitts to sue the Commonwealth.

H. Res. 13. Resolution authorizing Mrs. C. M. Summers, Jr., to sue the Commonwealth.

H. Res. 56. Resolution authorizing Harry Leslie to sue the Commonwealth.

H. Res. 53. Resolution authorizing Mary Latta Leachman to sue the Commonwealth.

H. Res. 48. Resolution authorizing Frank McClain to sue the Commonwealth.

H. Res. 37. Resolution authorizing Susie Price and others to sue the Commonwealth.

H. Res. 26. Resolution authorizing Raymond Glasscock to sue the Commonwealth.

H. Res. 29. Resolution authorizing Roscoe Caudill to sue the Commonwealth.

H. Res. 35. Resolution authorizing Charles Ed. Webb to sue the Commonwealth.

H. Res. 40. Resodlution authorizing Andy Roberts to sue the Commonwealth.

H. Res. 16. Resolution authorizing C. N. Hosteter to sue the Commonwealth.

Ordered that said bills and resolutions be delivered to the Enrolling Clerk of this House.

And that they had passed bills and resolutions which originated in this House, entitled:

H. Res. 34. Resolution authorizing Virgil L. Webb, father of Chharles Webb, to sue the Commonwealth.

With an amendment thereto as proposed and adopted by the Senate.

H. Res. 25. Resolution authorizing Roxie Adkins to sue the Commonwealth.

With an amendment thereto as proposed and adopted by the Senate.

H. Res. 24. Resolution authorizing personal representative of Walter Ramsey to sue the Commonwealth.

With an amendment thereto as proposed and adopted by the Senate.

H. Res. 23. Resolution authorizing personal representative of estate of Crate Ramsey to sue the Commonwealth.

With an amendment thereto as proposed and adopted by the Senate.

H. Res. 22. Resolution authorizing Moses Ramsey administrator of estate of Rose Ramsey to sue the Commonwealth.

With an amendment thereto as proposed and adopted by the Senate.

Ordered that said resolutions be laid on the Clerk's Desk.

Mr. Henry Ward moved that the Rules of this House be suspended and that the House proceed to consider the Orders of the Day.

Said motion was agreed to.

Thereupon the House took up for consideration from the Calendar, bills of the following titles, viz.:

H. B. 351. An Act relating to accidents.

H. B. 352. An Act relating to corporations.

H. B. 353. An Act relating to crime and punishment.

H. B. 354. An Act relating to attorneys.

H. B. 355. An Act relating to production, marketing and storage of agricultural products.

H. B. 356. An Act relating to public health.

H. B. 364. An Act relating to school districts.

H. B. 361. An Act amending Sec. 2554b-169 of Baldwin's 1938 Supplement, relating to labeling of whiskey, etc.

H. B. 224. An Act to amend and reenact Sec. 576a-1 Carroll's Kentucky Statutes 1936.

H. B. 173. An Act relating to high school service.

H. B. 261. An Act relating to drainage districts.

H. B. 250. An Act to permit correction of ballots that are improperly signed.

H. B. 326. An Act to exempt any corporation having no capital stock for religious, charitable purpose.

S. B. 132. An Act to amend Sec. 2739-31 Carroll's Kentucky Statutes, relating to mines.

S. B. 111. An Act to amend Section 1, Chapter 92 of 1940 Acts, relating to salaries of public officers.

H. B. 371. An Act relating to motor carriers.

H. B. 366. An Act relating to the licensing of carnivals and circuses.

H. B. 348. An Act relating to insurance policies.

H. B. 321. An Act relating to automobiles and motor vehicles.

H. B. 372. An Act relating to offices of county clerk and other county officers in counties etc.

H. B. 373. An Act relating to alcoholic beverages.

H. B. 375. An Act to establish boundary line between State of Indiana and Kentucky by agreement.

H. Res. 68. Resolution authorizing payment of costs in contest case of Cooper vs. Duff.

H. Res. 75. Resolution providing for the furnishing of copies of Kentucky Revised Statutes to members of General Assembly 1942.

Ordered that said bills be read the second time.

The Constitutional provision as to the second reading of said bills at length being dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 315. An Act relating to narcotic drugs.

Said bill is as follows, viz.:

WHEREAS, the Federal Bureau of Narcotics has recommended the following amendments to the Uniform Narcotic Drug Act and it is the desire of the General Assembly to cooperate with the Bureau of Narcotics and to keep the Act uniform; now, therefore:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 3716-8 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

*Preparations exempted.* Except as otherwise in this Act specifically provided, this Act shall not apply to the following cases:

(1) Administering, dispensing, or selling at retail of any medicinal preparation that contains in one fluid ounce, or if a solid or semi-solid preparation, in one avoirdupois ounce, not more than one grain of codeine or of any of its salts.

(2) The exemption authorized by this section shall be subject to the following conditions (a) that the medicinal preparation, administered, dispensed, or sold, shall contain, in addition to the narcotic drugs in it, some drug or drugs conferring upon it medicinal qualities other than those possessed by the narcotic drug alone; and (b) that such preparation shall be administered, dispensed, and sold in good faith as a medicine, and not for the purpose of evading the provisions of this Act.

(3) Nothing in this section shall be construed to limit the quantity of codeine or of any of its salts that may be prescribed, administered, dispensed, or sold, to any person or for the use of any person or animal, when it is prescribed, administered, dispensed, or sold, in compliance with the general provisions of this Act.

§ 2. Subsection (5) of section 3716-9 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

The form of records shall be prescribed by the State Board of Health. The record of narcotic drugs received shall in ever case show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received; the kind and quantity of narcotic drugs produced or removed from process of manufacture, and the date of such production or removal from process of manufacture; and the record shall in every case show the proportion

of morphine, cocaine, or ecgonine contained in or producible from the crude opium or coca leaves received or produced and the proportion of resin contained in or producible from the plant Cannabis Sativa L. The record of all narcotic drugs sold, administered, dispensed, or otherwise disposed of, shall show the date of selling, administering, or dispensing, the name and address of the person to whom, or for whose use, or the owner and species of animal for which the drugs were sold, administered or dispensed, and the kind and quantity of drugs. Every such record shall be kept for a period of two years from the date of the transaction recorded. The keeping of a record required by or under the Federal Narcotic Laws, containing substantially the same information as is specified above, shall constitute compliance with this section, except that every such record shall contain a detailed list of narcotic drugs lost, destroyed, or stolen, if any, the kind and quantity of such drugs, and the date of the discovery of such loss, destruction, or theft.

§ 3. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 218.080, and thereafter be treated as an amendment to KRS 218.080 rather than and amendment to § 3716-8 of Carroll's Statutes.

§ 4. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section two of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of subsection (5) of KRS 218.090, and thereafter be treated as an amendment to subsection (5) of KRS 218.090 rather than an amendment to § 3716-9(5) of Carroll's Statutes.

Mr. Henry Ward moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| Henry Arrowood | W. A. Lamkin | H. C. Patterson |
| William F. Ball | H. W. Linville | B. W. Porter |
| Robert E. Beatty | A. L. Love | Kleber F. Price |
| Douglas T. Bolling | William Lovett | James E. Quill |
| H. M. Brock, Jr. | Hugh D. Lyon | L. Allen Rhoads |
| C. L. Clayton | H. McCartney | Dr. K. N. Salyer |
| T. Fowler Combs | Cary McDevitt | Carl Scheben |
| John Henry Cox | Norris McPherson | Leon J. Shaikun |
| Rev. W. W. Crouch | Ed. Marcum | Faust Y. Simpson |
| Harry W. Ennis | J. Milton Mefford | Charles L. Spilman |
| W. W. Freeman | D. J. Moore | R. C. Stephenson |
| Joseph J. Grace | C. E. Montgomery | Egbert Taylor |
| E. R. Hilton | E. R. Morlidge | Roy L. Taylor |
| Crow Jarvis | C. Sid Nabb | Henry Ward |
| John S. Juett | Robert Nicholas | E. Reed Wilson |

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Those who voted in the negative were—

| | | |
|---|---|---|
| Sherman E. Carter | Fuller Harding | Coy Nevitt |
| Oris Cooper | Clyde S. Howard | Paul Pelfrey |
| Dr. J. A. Duff | Jerry F. Howell | Otto Smither |
| Forest C. Easley | Joe B. Jarboe, Jr. | Thomas M. Swope |
| John D. Fields | William L. Jones | C. W. Taylor |
| P. Bert Hall | L. D. Moore | Erna E. Tyra |
| A. G. Hamilton, Jr. | F. E. Morancy | |

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Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 331. An Act to amend Section 8, Chapter 79, Acts 1940.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Sec. 1. That section 8, Chapter 79, Acts 1940 is amended to read as follows:

It shall be the duty of all state and national banks, trust companies, or other persons, and courts of this Commonwealth or the agents thereof, whether holding estates or property as bailee, depository, debtor, trustee, executor, liquidator, administrator, distributor, receiver, or in any other capacity coming within the purview of section 7 of this Act, to report annually to the Department as of July 1, all property held by them declared by this Act to be presumed abandoned. The report shall be filed in the offices of the Department on or before September 1 of each year for the preceding July 1, and shall give the name of the owner, his last known address, the amount and kind of property, and such other information as the Department may require for the administration of this Act. The report shall be made in duplicate; the original shall be retained by the Department, and the copy shall be mailed to the sheriff of the county where the property is located or held. It shall be the duty of the

sheriff to post said copy on the court house door or the court house bulletin board. The sheriff shall immediately certify in writing to the Department the date when said copy was posted. Said copy must be posted on or before October 1 of the year when it is made, and shall be constructive notice to all interested parties and shall be in addition to any other notice provided by statute or existing as a matter of law. Any person who has made a report of any estate or property presumed abandoned, as required by this Act, shall, between November 1 and November 15 of each year, turn over to the Department all property so reported; but if the person making the report or the owner of the property shall certify to the Department by sworn statement that any or all of the statutory conditions necessary to create a presumption of abandonment no longer exist or never did exist, or shall certify the existence of any fact or circumstance which has a substantial tendency to rebut such presumption, then, the person reporting or holding the property shall not be required to turn the property over to the Department except on order of court. No person shall be required to surrender any property on a presumption of abandonment to the Department if the period of time provided by any statute of limitation applicable to the owner's rights as against the holder has expired unless the court orders him to do so. If a person files an action in court claiming any property which has been reported under the provisions of this Act, the person reporting or holding such property shall be under no duty while any such action is pending to turn the property over to the Department, but shall have the duty of notifying the Department of the pendency of such action.

The person reporting or holding the property or any claimant thereof shall always have the right to a judicial determination of his rights under this Act and nothing therein shall be construed otherwise; and the Commonwealth may institute an action to recover such property as is presumed abandoned whether it has been reported or not and may in-

clude in one petition all such property within the jurisdiction of the court in which the action is brought provided the property of different persons is set out in separate paragraphs.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 393.110, and shall thereafter be treated as an amendement to KRS 393.110 rather than an amendment to section 8 of Chapter 79 of the Acts of 1940.

Mr. Henry Ward moved the previous question.

Thereupon the Speaker announced "Shall the main question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | John Henry Cox | T. P. Fitzpatrick |
| Henry Arrowood | Rev. W. W. Crouch | W. W. Freeman |
| William F. Ball | Guthrie F. Crowe | Joseph J. Grace |
| Robert E. Barry | Pink G. Curd | P. Bert Hall |
| Douglas T. Bolling | Dr. J. A. Duff | E. R. Hilton |
| C. L. Clayton | Forest C. Easley | Clyde S. Howard |
| T. Fowler Combs | Harry W. Ennis | Chas. O. Humston |

| | | |
|---|---|---|
| Joe B. Jarboe, Jr. | L. D. Moore | Otto Smither |
| Crow Jarvis | C. E. Montgomery | Charles L. Spilman |
| William L. Jones | E. R. Morlidge | James D. Stacey |
| John S. Juett | C. Sid Nabb | J. Claude Stacy |
| W. A. Lamkin | Robert Nicholas | R. C. Stephenson |
| H. W. Linville | Paul Pelfrey | C. W. Taylor |
| A. L. Love | B. W. Porter | Egbert Taylor |
| William Lovett | Kleber F. Price | Roy L. Taylor |
| Hugh D. Lyon | James E. Quill | Rev. H. Tinsley |
| H. McCartney | L. Allen Rhoads | John L. Trumbo |
| Cary McDevitt | Dr. J. J. Rice | Erna E. Tyra |
| Norris McPherson | Byron H. Royster | C. R. Walden |
| Ed. Marcum | Dr. K. N. Salyer | Harry Walters |
| J. Milton Mefford | Carl Scheben | Henry Ward |
| D. J. Moore | Faust Y. Simpson | E. Reed Wilson |

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Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

S. B. 5. An Act to protect property by making criminal certain unlawful entries on, injuries to, and interferences with property or an attempt to do any of said things; authorizing the closing of streets, bridges, rights-of-way, and highways; providing penalties; and declaring an emergency to exist.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. *Definitions.* As used in this Act:

"Highway" includes any alley, sidewalk, private or public street, or any other way or place, used for travel by vehicle or pedestrian to or from property.

"Public utility" includes any pipe line, gas, electric, heat, water, oil, sewer, telephone, telegraph, railway, railroad, airplane, transportation, communications, or any other system, by whomsoever owned or operated for public use.

"National defense industry" shall mean any individual, partnership, association or corporation engaged in or preparing to engage in the manufacture, transportation or storage of any product to be used by the United States or by any of the States in the prosecution of defense or of war, or any individual, partnership, association or corporation engaged in or preparing to engage in the manufacture, transportation or storage of any article necessary to and to become part of any product to be used in the prosecution of defense or of war by the United States or by any of the States.

§ 2. *Intentional Injury To or Interference With Property.* Whoever intentionally destroys, impairs, injures, interferes or tampers with real or personal property with reasonable grounds to believe that such act will hinder, delay or interfere with the prosecution by the United States or by any of the States of defense or of war shall be punished by imprisonment for not less than one (1) nor more than ten (10) years, or by a fine of not more than Ten Thousand ($10,000) Dollars, or both.

If such act or acts be committed upon or about real property or personal property in which are housed, or about which there are reasonable grounds to believe there are, human beings, whoever commits such act or acts shall be punished by death in the manner prescribed by the general law of the Commonwealth of Kentucky.

§ 3. *Intentionally Defective Workmanship.* Whoever

intentionally makes or causes to be made or omits to note on inspection any defect in any article or thing with reasonable grounds to believe that such article or thing is intended to be used in connection with the prosecution by the United States or by any of the States of defense or of war, or that such article or thing is one of a number of similar articles or things, some of which are intended so to be used, shall be punished by imprisonment for not less than one (1) nor more than ten (10) years, or by a fine of not more than Ten Thousand ($10,000) Dollars, or both.

§ 4. *Attempts.* Whoever attempts to commit any of the crimes defined by this Act shall be liable to punishment by imprisonment for not less than one (1) nor more than five (5) years. In addition to the acts which constitute an attempt to commit a crime under the laws of this State, the solicitation or incitement of another to commit any of the crimes defined by this Act not followed by the commission of the crime, the collection or assemblage of any materials with the intent that the same are to be used then or at a later time in the commission of such crime, or the entry, with or without permission, of a building, inclosure, right-of-way, or restricted area, or other premises of another, with the intent to commit any such crime therein, thereon or thereabout, shall constitute an attempt to commit such crime.

§ 5. *Conspirators.* If two or more persons conspire to commit any crime defined by this Act, each of such persons is guilty of conspiracy and subject to the same punishment as if he had committed the crime which he conspired to commit, whether or not any act be done in furtherance of the conspiracy.

§ 6. *Witnesses' Privileges.* No person shall be excused from attending and testifying, or producing any books, papers, weapons, devices, or other documents or materials, before any court, magistrate, referee or grand jury, or city prosecuting attorney, county attorney, or Commonwealth's

attorney, upon any investigation, inquiry, proceeding or trial, for or relating to or concerned with a violation of any section of this Act, or attempt to commit such violation, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him by the State may tend to convict him of a crime or to subject him to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be received against him, upon any criminal investigation, proceeding or trial, except upon a prosecution for perjury or contempt of court based upon the giving or producing of such testimony.

§ 7. *Unlawful Entry on Property.* Any individual, partnership, association, corporation, municipal corporation or state, or any political subdivision thereof, engaged in, or preparing to engage in, the manufacture, transportation or storage of any product to be used in the prosecution by the United States or by any of the States of defense or of war, or the manufacture, transportation, distribution or storage of gas, oil, coal, electricity or water, or any of said natural or artificial persons operating any public utility, whose property, except where it fronts on water or where there are entrances for railway cars, vehicles, persons or things, is surrounded by a fence or wall, or a fence or wall and buildings, may post around his or its property at each gate, entrance, dock or railway entrance and every one hundred (100) feet of water front, a sign reading "No Entry Without Permission". Whoever without permission of such owner shall wilfully enter upon premises so posted shall be punished by imprisonment for not more than ninety (90) days, or a fine of not more than One Hundred ($100.00) Dollars, or both.

§ 8. *Questioning and Detaining Suspected Persons.* Any peace officer or any person employed as watchman,

guard, or in a supervisory capacity, on premises posted as provided in Section Seven of this Act, may stop any person found on any premises, or any restricted area as defined and provided for by Section Nine of this Act, to which entry without permission is forbidden by Section Seven, and may detain him for the purpose of demanding, and may demand of him, his name, address and business in such place. If said peace officer or such employee has reason to believe from the answers of the person so interrogated that such person has no right to be in such place, said peace officer shall forthwith arrest such person without a warrant on the charge of violating the provisions of Section Seven; and such employee shall forthwith turn over such person to a peace officer, who may arrest such person without a warrant on the charge of violating the provisions of Section Seven.

§ 9. *Closing and Restricting Use of Highways and Other Areas.* Any individual, partnership, association, corporation, municipal corporation or state, or any political subdivision thereof, engaged in or preparing to engage in the manufacture, transportation or storage of any product to be used in the prosecution by the United States of defense or of war, or in the manufacture, transportation, distribution or storage of gas, oil, coal, electricity or water, or any of said natural or artificial persons operating any public utility, who has property so used which he or it believes will be endangered if public use and travel is not restricted or prohibited on one or more highways or parts thereof upon which such property abuts, may petition the mayor, the county judge, or the Governor of the Commonwealth, to close one or more of said highways or parts thereof to public use and travel or to restrict by order the use and travel upon one or more of said highways or parts thereof.

Upon receipt of such petition, the officer receiving the same shall immediately hold a hearing, and if the facts to be divulged are of a confidential nature, or if to the best interests

of the Nation that they should not be made public, a private hearing, and issue whatever order the facts may justify closing to the public use and travel, or reasonably restricting the public use and travel upon, one or more of said highways or parts thereof; provided, the officer entering the same may issue written permits to travel over the highways so closed or restricted to responsible and reputable persons for such term, under such conditions and in such form as said officer may prescribe. Appropriate notices in letters at least three (3) inches high shall be posted conspicuously at each end of any highway so closed or restricted by such order. The officer entering said order may at any time revoke or modify any order so made.

Any mayor, county judge, and, if beyond the jurisdiction of any of the aforenamed officers, the Governor of the Commonwealth of Kentucky, shall have the right to declare any territory necessary and incident to the defense of the Nation a restricted area, and, if deemed advisable by any of the aforenamed officers, they shall, by a suitable order, close to public use, travel, or private use, if necessary, any of such territory; provided that any one of the officers, to-wit: the mayor, the county judge, the Governor of the Commonwealth, may issue a written permit for the use of such restricted area in the manner and form and under such conditions as such permits may prescribe. Any declaration or order so entered may be by the officer making the same revoked or modified at any time. Any permit issued by any officer may be by such officer revoked at any time.

No mayor or county judge upon demand of the Governor of the Commonwealth shall refuse to declare any territory incident and necessary to the defense of the Nation a restricted area.

§ 10. *Penalty for Going upon Closed or Restricted Highway or Area.* Whoever violates any order made under Section Nine of this Act shall be punished by imprisonment for

not more than ninety (90) days or a fine of not more than One Hundred ($100.00) Dollars, or both.

§ 11. *Suspension of Injunctive Relief.* No person feeling that he will be aggrieved by the act of a mayor, county judge, or the Governor of the Commonwealth, in declaring a territory a restricted area or in closing or restricting a highway to public use and travel in the manner provided by this Act, shall have the right to enjoin the action of such officer; but any person feeling himself aggrieved, after such territory has been declared a restricted area, or after such highway has been closed or restricted to public use and travel, may proceed in the same manner as now provided by law for a mandamus against such officer in the county of the officer's residence and office in the case of the mayor or the county judge, and in the County of Franklin in the case of the Governor of the Commonwealth. Pending an appeal from the order of mandamus, in the event one should be issued, the order declaring any territory a restricted area, or closing or restricting any highway to public use and travel, shall remain in full force and effect without such officer against whom such proceedings are prosecuted executing a supersedeas bond.

The mayor, the county judge, or the Governor of the Commonwealth, in the event such mandamus is sought, shall not be compelled to reveal by his testimony any information received by him from the United States or any of its agencies or from any peace officer relative to the reasons which justify his action.

§ 12. *Severability.* If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

§ 13. *Short Title.* This Act may be cited as the Sabotage Prevention Act.

§ 14. *Relation to Other Statutes.* All acts and parts of acts inconsistent with this Act are hereby suspended in their application to any proceedings under this Act. No word, phrase, sentence, paragraph, or section of this Act shall suspend any law now in existence in the Commonwealth of Kentucky relating to the rights of Labor, nor shall any word, phrase, sentence, paragraph, or section of this Act be construed as impairing, effecting, or abridging the rights and grants of Labor as provided by existing law of this Commonwealth. If conduct prohibited by this Act is also made unlawful by another or other laws, the offender may be convicted for the violation of this Act or of such other law or laws.

§ 15. *Emergency Clause.* Whereas, the Legislature is cognizant of the fact that the United States is at war and a national emergency exists, making necessary the enactment of law as set forth in this Act,

Therefore, a state of emergency is declared to exist, and this Act shall take effect immediately upon its passage and approval by the Governor, and shall continue in force until the President of the United States declares the emergency at an end.

Mr. Henry Ward offered the following amendment to said bill, viz.:

Amend S. B. 5 in House on page 8, section 14, line 8 by striking out the following:

"as provided by existing law of this Commonwealth"

Said amendment was agreed to.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with, said bill was read the third time by its title only and passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Joe B. Jarboe, Jr. | L. Allen Rhoads |
| Henry Arrowood | William L. Jones | Dr. J. J. Rice |
| William F. Ball | John S. Juett | Byron H. Royster |
| Robert E. Barry | W. A. Lamkin | Dr. K. N. Salyer |
| Douglas T. Bolling | H. W. Linville | Carl Scheben |
| Gus A. Brooks | A. L. Love | Leon J. Shaikun |
| Sherman E. Carter | William Lovett | Faust Y. Simpson |
| C. L. Clayton | Harry K. Lowman | Otto Smither |
| T. Fowler Combs | Hugh D. Lyon | Charles L. Spilman |
| Oris Cooper | Cary McDevitt | James D. Stacey |
| John Henry Cox | Norris McPherson | J. Claude Stacy |
| Guthrie F. Crowe | Dr. Wm. C. Mann | R. C. Stephenson |
| Pink G. Curd | Ed. Marcum | Thomas M. Swope |
| Dr. J. A. Duff | D. J. Moore | Egbert Taylor |
| Forest C. Easley | L. D. Moore | Roy L. Taylor |
| T. P. Fitzpatrick | C. E. Montgomery | Rev. H. Tinsley |
| W. W. Freeman | E. R. Morlidge | John L. Trumbo |
| Joseph J. Grace | C. Sid Nabb | Erna E. Tyra |
| P. Bert Hall | Coy Nevitt | C. R. Walden |
| A. G. Hamilton, Jr. | Robert Nicholas | Harry Walters |
| Fuller Harding | Paul Pelfrey | Henry Ward |
| Clyde S. Howard | B. W. Porter | H. L. Waterfield |
| Chas. O. Humston | Kleber F. Price | E. Reed Wilson |

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Those who voted in the negative were—

Rev. W. W. Crouch James E. Quill —2

Mr. Henry Ward offered the following amendment to the title of said bill, viz.:

Amend the title to S. B. 5 in House by inserting after the semicolon following the word "penalties" and before the word "and" the following:

"providing for the termination of this act when the President declares the emergency at an end;"

Said amendment was agreed to.

Resolved that the title thereof be as amended.

Mr. Henry Ward moved that the vote by which said bill was passed as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Henry Ward moved that the Rules of this House be suspended for the purpose of making a Committee Report.

Said motion was agreed to.

Thereupon Mr. Ward of the Committee on Rules to which the same had been referred, reported bills of the following titles, viz.:

S. B. 82. An Act relating to powers and duties of Department of Revenue.

S. B. 104. An Act relating to the enforcement of the satisfaction of judgments.

S. B. 109. An Act to authorize the Commissioner of Walfare to parole at any time at his discretion prisoners serving sentences of ten years or less.

S. B. 110. An Act called "State Agency Regulations Filing Act."

S. B. 117. An Act relating to manufacture, transportation and sale of distilled spirits.

S. B. 141. An Act revising and establishing provisions for the sale of real property of infants, etc.

S. B. 167. An Act relating to municipal and county planning and zoning.

S. B. 170. An Act relating to distilled spirits.

H. B. 337. An Act providing for compensation of attorneys appointed to defend poor persons in criminal actions.

H. B. 374. An Act relating to banks and trust companies.

H. B. 378. An Act relating to finances and revenue of cities of the second class.

S. B. 152. An Act relating to pharmacy.

S. B. 105. An Act to amend and reenact section 2220 Carroll's Kentucky Statutes, relating to interest of judgment.

H. B. 349. An Act relating to alcohol control.

H. B. 343. An Act relating to licensing of school buses.

H. B. 346. An Act requiring incorporated cities to file in office of County Clerk a map of such city with all amendments thereto.

H. B. 97. An Act to require corporations doing business under an assumed name to register such name in office of county clerk.

H. B. 382. An Act to authorize individuals, partnerships, etc., to act as issuing agents for the sale and issue of obligations of the United States upon designation by the Secretary of Treasury.

H. B. 345. An Act to provide a State bounty for crows.

With Committee amendment thereto.

With the expression of opinion that said bills ought to pass.

Said bills were each and severally read at length the first time and ordered to be placed on the Calendar.

Mr. Henry Ward moved that the House do now recess until two o'clock P.M.

Said motion was agreed to.

And then the House recessed.

The hour of two o'clock P.M. having arrived, the Speaker resumed the Chair and called the House to order.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 327. An Act repealing and reenacting section 2380b-30, Carroll's Kentucky Statutes, 1936 Revised Edition, relating to the date when drainage assessments become delinquent; and a penalty is added thereto.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That section 2380b-30, Carroll's Kentucky Statutes, 1936 Revised Edition, is hereby repealed and reenacted so that when reenacted it shall read as follows:

2380b-30.—It shall be the duty of the sheriff or tax collector of each county in which lands or other property of any district organized under this act are situated, to receive the "collector's drainage assessment book" each year, and he is hereby empowered and it shall be his duty to promptly and faithfully collect the assessments which shall become due and payable on the lands and other property therein set out, and to exercise all due diligence in so doing. He is further directed and ordered to demand and collect such assessments at the same time that he demands and collects state and county taxes due on the same land and other property. Where any tract or part thereof has been divided or sold or transferred, the sheriff shall receive assessments on any part of any tract, piece or parcel of land or other property charged with such assessments and give his receipt accordingly and shaw therein upon what part of such land or property the assessment has been paid. The collector's drainage assessment book shall be the warrant and authority of the sheriff for making such demand and collection. The sheriff shall make due return of all "collector's drainage assessment books" each year to the secretary of the board of drainage commissioners issuing the same and shall pay over and account for all moneys collected thereon each year to the treasurer of said district at the same time when he pays over state and county taxes. If the assessment has not been paid to the sheriff or collector on any parcel of land or property described in the assessment register certified to him during the year for which said assessment was levied or on or before the last day of February of the year immediately following the year for which said assessment was levied and became due, a penalty of six per centum (6%) shall automatically attach thereto on and after said date, which shall be added to the assessment against such parcel or parcels of land on which the assessment has not been paid, to be collected by the sheriff in the same manner that the assessment is collected; and, unless so paid, the sheriff shall on the first day of next January term of the

county court in the county wherein said land or property assessed is located, sell said land or property or so much thereof as may be necessary to pay and satisfy such assessment, penalty and costs and expenses of selling the same; said sale shall be for cash. Before making any such sale he shall notify the owner of such land in writing that said land will be sold by posting a copy of such notice of sale on the land to be sold and at three other public and conspicuous places in the vicinity where said land is located, which notice shall contain the description that is given in the "district assessment register" on file in the county court clerk's office of his county, and it shall contain a statement of the amount of the assessment due on said land or property for such year, together with the amount of the penalty due thereon, and a statement of the costs and expenses of making such sale, which costs shall be five dollars. Said notice shall be posted for at least fifteen days immediately preceding the day on which it is to be sold, and a copy thereof shall likewise be posted for the same length of time at the courthouse door in the county where the land to be sold is situated. Said notice shall also be published in a newspaper published in the county where said land is located, if there be any newspaper so published in the county. If there is no newspaper published in said county, then the posting of the notices above provided for all shall be deemed sufficient. The sales of land and other property by the sheriff for the assessments, penalties, costs and expenses of making sale shall be made in the same manner and have the same force and effect as sales of land or other property for state and county taxes, and subject to redemption by the owner within the time, on the terms, upon the penalties and upon the same conditions that are now and may hereafter be provided by general law for the redemption of land or other property sold by the sheriff for state or county taxes. When any land or other property is sold for the assessment herein provided for, if no one will bid for and purchase and pay for such property so offered for sale, the amount of the assess-

ment, penalty, interest and costs including the costs for advertising such sale, it shall be the duty of the sheriff making such sale to purchase same for the board of drainage commissioners of the county where such drainage, levee or reclamation district, where same was established to which such assessment is due and owing, and he shall make report of such fact to the clerk of the county court of the county in which such lands or property is located, as required by law in such cases under sales to the state and county for state and county taxes. He shall also certify such facts in like manner to the secretary of the board of drainage commissioners of the county wherein such drainage, levee or reclamation district was organized, which report shall be received and kept by the secretary of such board and recorded by him in the general drainage record book so kept by him. The purchaser of any such lands or property at such sales shall take said property subject to the future assessments to be levied against said property for making the improvement. The purchaser of any land or property at such sales as herein provided shall acquire, have and hold the same estate, right, title, lien upon and interest in lands or property so purchased that purchasers of land or property acquire at sales of lands for state and county taxes, subject alone to the provisions of this act. If lands or other property sold by the sheriff for their assessments be not redeemed by the owner within the time allowed by law, the sheriff making such sale or his successor in office shall make, execute and deliver to the purchaser a deed of conveyance to the property sold as in cases where lands have been sold for state and county taxes, which deed shall have the same force and effect as sheriff's deeds for state and county taxes. The right, title and interest in and lien upon lands acquired under a purchase of lands hereinabove provided for at sheriff's sales may be enforced in any court of equity having jurisdiction under the general laws of this Commonwealth by the purchaser of such land, including the board of

drainage commissioners, who shall purchase same at any such sheriff's sale above provided for herein.

Mr. Bolling offered the following amendment to said bill, viz.:

Amend H. B. 327 on page 2, section 1, line 34 by striking out the word "January" following the word "next" and inserting in lieu thereof the word "March".

Said amendment was agreed to.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | John Henry Cox | Fuller Harding |
| William F. Ball | Rev. W. W. Crouch | Joe Higgins |
| Robert E. Barry | Guthrie F. Crowe | E. R. Hilton |
| W. T. Beard | Pink G. Curd | Clyde S. Howard |
| Robert E. Beatty | Dr. J. A. Duff | Jerry F. Howell |
| Douglas T. Bolling | Forest C. Easley | Chas. O. Humston |
| H. M. Brock, Jr. | Harry W. Ennis | Joe B. Jarboe |
| Gus A. Brooks | John D. Fields | William L. Jones |
| Sherman E. Carter | T. P. Fitzpatrick | John S. Juett |
| C. L. Clayton | W. W. Freeman | W. A. Lamkin |
| T. Fowler Combs | Joseph J. Grace | H. W. Linville |
| Oris Cooper | P. Bert Hall | William Lovett |
| M. A. Cornett | A. G. Hamilton, Jr. | Hugh D. Lyon |

| | | |
|---|---|---|
| H. McCartney | Paul Pelfrey | R. C. Stephenson |
| Cary McDevitt | B. W. Porter | Thomas M. Swope |
| Dr. Wm. C. Mann | James E. Quill | C. W. Taylor |
| Ed. Marcum | L. Allen Rhoads | Egbert Taylor |
| C. C. May | Dr. J. J. Rice | Roy L. Taylor |
| J. Milton Mefford | Byron H. Royster | John L. Trumbo |
| D. J. Moore | Dr. K. N. Salyer | Erna E. Tyra |
| J. Lee Moore | Leon J. Shaikun | S. J. Wagner |
| L. D. Moore | Clyde Smith | C. R. Walden |
| C. E. Montgomery | Otto Smither | Harry Walters |
| F. E. Morancy | Charles L. Spilman | Henry Ward |
| E. R. Morlidge | James D. Stacey | H. L. Waterfield |
| C. Sid Nabb | J. Claude Stacy | E. Reed Wilson |

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There voted in the negative—

A. L. Love —1

Resolved that the title thereof be as aforesaid.

Mr. Bolling moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 218. An Act relating to quarterly courts.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 1 of Chapter 47 of the Acts of 1940 is amended to read as follows:

(1) The quarterly court shall be presided over by the county judge or by the person designated by the county judge as county judge pro tem, as provided by law, to act in the absence of the county judge or when the county judge is unable, for some reason, to perform the duties imposed upon him as judge of the quarterly court. At least four terms of the quarterly court shall be held in each county each year, at intervals of three months and upon such days as the county judge may fix by order entered upon the order book of said court. The county judge may by an order so entered provide for the holding of monthly terms, or for continuous sessions, but such order must be made at a regular term of said court and not to take effect until sixty days thereafter. At each term the court shall remain in session as long as the business requires it.

(2) The quarterly court shall be held in the courthouse, except that in counties of less than 150,000 population and containing a city of the second class where the terms of the circuit courts are held in the city of the second class as required by law and the county does not own, operate or maintain a courthouse in a city of the second class, the quarterly court shall be held in the city of the second class as well as at the county seat.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 25.450, and thereafter be treated as an amendment to KRS 25.450 rather than an amendment to 1940, c. 47, § 1.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Jerry F. Howell | James E. Quill |
| William F. Ball | Chas. O. Humston | L. Allen Rhoads |
| Robert E. Barry | Crow Jarvis | Dr. J. J. Rice |
| W. T. Beard | William L. Jones | Byron H. Royster |
| Robert E. Beatty | John S. Juett | Dr. K. N. Salyer |
| Douglas T. Bolling | W. A. Lamkin | Leon J. Shaikun |
| H. M. Brock, Jr. | H. W. Linville | Faust Y. Simpson |
| Gus A. Brooks | A. L. Love | Clyde Smith |
| T. Fowler Combs | William Lovett | Otto Smither |
| Oris Cooper | Hugh D. Lyon | Charles L. Spilman |
| John Henry Cox | H. McCartney | James D. Stacey |
| Rev. W. W. Crouch | Cary McDevitt | J. Claude Stacy |
| Guthrie F. Crowe | Dr. Wm. C. Mann | R. C. Stephenson |
| Pink G. Curd | Ed. Marcum | Thomas M. Swope |
| Dr. J. A. Duff | C. C. May | C. W. Taylor |
| Forest C. Easley | J. Milton Mefford | Egbert Taylor |
| Harry W. Ennis | D. J. Moore | Rev. H. Tinsley |
| T. P. Fitzpatrick | J. Lee Moore | John L. Trumbo |
| W. W. Freeman | L. D. Moore | S. J. Wagner |
| Joseph J. Grace | E. R. Morlidge | C. R. Walden |
| P. Bert Hall | C. Sid Nabb | Harry Walters |
| Fuller Harding | Coy Nevitt | Henry Ward |
| Joe Higgins | Paul Pelfrey | H. L. Waterfield |
| Clyde S. Howard | B. W. Porter | E. Reed Wilson |

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There voted in the negative—

Sherman E. Carter —1

Resolved that the title thereof be as aforesaid.

Mr. Morlidge moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 283. An Act relating to mechanics and material men.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 2476 of Carroll's Kentucky Statutes, 1936 Edition is amended to read as follows:

If for any cause it should be improper to refer the case to the master commissioner, he is then directed to select some suitable person to act as commissioner for the occasion and refer the case to him; but before such person shall proceed to act, he shall, before the clerk, take an oath, and execute bond, with sufficient surety, similar in all respects to the bond required to be executed by the master commissioner, which bond shall be preserved by the clerk, and reported to the court at its next ensuing term.

Section 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of subsection (2) of KRS 376.110, and shall thereafter be treated as an amendment to subsection (2) of KRS 376.110 rather than amendment to Section 2476 of Carroll's Statutes.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of

said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Jerry F. Howell | B. W. Porter |
| Henry Arrowood | Chas. O. Humston | Kleber F. Price |
| W. T. Beard | Crow Jarvis | L. Allen Rhoads |
| Robert E. Beatty | William L. Jones | Dr. J. J. Rice |
| Douglas T. Bolling | John S. Juett | Byron H. Royster |
| H. M. Brock, Jr. | W. A. Lamkin | Dr. K. N. Salyer |
| Gus A. Brooks | H. W. Linville | Leon J. Shaikun |
| Sherman E. Carter | A. L. Love | Faust Y. Simpson |
| C. L. Clayton | William Lovett | Clyde Smith |
| John Henry Cox | Hugh D. Lyon | Otto Smither |
| Rev. W. W. Crouch | H. McCartney | Charles L. Spilman |
| Guthrie F. Crowe | Cary McDevitt | James D. Stacey |
| Pink G. Curd | Norris McPherson | J. Claude Stacy |
| Dr. J. A. Duff | Dr. Wm. C. Mann | R. C. Stephenson |
| Forest C. Easley | Ed. Marcum | Thomas M. Swope |
| Harry W. Ennis | C. C. May | C. W. Taylor |
| John D. Fields | J. Milton Mefford | Egbert Taylor |
| T. P. Fitzpatrick | D. J. Moore | Rev. H. Tinsley |
| Joseph J. Grace | J. Lee Moore | John L. Trumbo |
| Bert Hall | L. D. Moore | S. J. Wagner |
| A. G. Hamilton, Jr. | F. E. Morancy | C. R. Walden |
| Fuller Harding | E. R. Morlidge | Henry Ward |
| Joe Higgins | C. Sid Nabb | H. L. Waterfield |
| E. R. Hilton | Coy Nevitt | E. Reed Wilson |
| Clyde S. Howard | Robert Nicholas | —74 |

Resolved that the title thereof be as aforesaid.

Mr. Simpson moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Clerk's Desk, a resolution entitled:

H. Res. 34. Resolution authorizing Virgil L. Webb, father of Charles Webb to sue the Commonwealth.

With an amendment thereto as proposed and adopted by the Senate.

(For resolution see House Journal of February 5.)

Said amendment as proposed and adopted by the Senate is as follows, viz.:

Amend H. Res. 34 by striking from line 7 in the printed bill the following:

"$3,000.00" and inserting in lieu thereof the following "$812.00".

Said amendment was concurred in.

Said resolution was then passed as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Gus A. Brooks | Guthrie F. Crowe |
| Henry Arrowood | C. L. Clayton | Pink G. Curd |
| William F. Ball | T. Fowler Combs | Dr. J. A. Duff |
| Robert E. Barry | Oris Cooper | Forest C. Easley |
| Douglas T. Bolling | John Henry Cox | T. P. Fitzpatrick |
| H. M. Brock, Jr. | Rev. W. W. Crouch | W. W. Freeman |

| | | |
|---|---|---|
| Joseph J. Grace | Dr. Wm. C. Mann | Carl Scheben |
| P. Bert Hall | Ed. Marcum | Leon J. Shaikun |
| A. G. Hamilton, Jr. | C. C. May | Faust Y. Simpson |
| Fuller Harding | J. Milton Mefford | Clyde Smith |
| Clyde S. Howard | D. J. Moore | Otto Smither |
| Jerry F. Howell | J. Lee Moore | Charles L. Spilman |
| Chas. O. Humston | E. R. Morlidge | James D. Stacey |
| Joe B. Jarboe, Jr. | C. Sid Nabb | J. Claude Stacy |
| Crow Jarvis | Coy Nevitt | R. C. Stephenson |
| W. A. Lamkin | Robert Nicholas | Thomas M. Swope |
| H. W. Linville | Paul Pelfrey | C. W. Taylor |
| A. L. Love | B. W. Porter | Egbert Taylor |
| William Lovett | Kleber F. Price | Roy L. Taylor |
| Harry K. Lowman | L. Allen Rhoads | Rev. H. Tinsley |
| Hugh D. Lyon | Dr. J. J. Rice | John L. Trumbo |
| H. McCartney | Byron H. Royster | C. R. Walden |
| Norris McPherson | Dr. K. N. Salyer | E. Reed Wilson |

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There voted in the negative—

Sherman E. Carter —1

Mr. Henry Ward moved that the vote by which said resolution was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Clerk's Desk, a resolution entitled:

H. Res. 25. Resolution authorizing Roxie Adkins to sue the Commonwealth.

With an amendment thereto as proposed and adopted by the Senate.

(For resolution see House Journal of February 5.)

Said amendment as proposed and adopted by the Senate, is as follows, viz.:

Amend H. Res. 25 by adding to the end thereof the following:

"Suit shall be for a sum not in excess of $10,000.00".

Said amendment was concurred in.

Said resolution was then passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | A. G. Hamilton, Jr. | J. Lee Moore |
| Henry Arrowood | Fuller Harding | E. R. Morlidge |
| William F. Ball | Clyde S. Howard | C. Sid Nabb |
| Robert E. Barry | Jerry F. Howell | Coy Nevitt |
| Douglas T. Bolling | Chas. O. Humston | Robert Nicholas |
| H. M. Brock, Jr. | Joe B. Jarboe, Jr. | Paul Pelfrey |
| Gus A. Brooks | Crow Jarvis | B. W. Porter |
| C. L. Clayton | W. A. Lamkin | Kleber F. Price |
| T. Fowler Combs | H. W. Linville | L. Allen Rhoads |
| Oris Cooper | A. L. Love | Dr. J. J. Rice |
| John Henry Cox | William Lovett | Byron H. Royster |
| Rev. W. W. Crouch | Harry K. Lowman | Dr. K. N. Salyer |
| Guthrie F. Crowe | Hugh D. Lyon | Carl Scheben |
| Pink G. Curd | H. McCartney | Leon J. Shaikun |
| Dr. J. A. Duff | Norris McPherson | Faust Y. Simpson |
| Forest C. Easley | Dr. Wm. C. Mann | Clyde Smith |
| T. P. Fitzpatrick | Ed. Marcum | Otto Smither |
| W. W. Freeman | C. C. May | Charles L. Spilman |
| Joseph J. Grace | J. Milton Mefford | James D. Stacey |
| P. Bert Hall | D. J. Moore | J. Claude Stacy |

| | | |
|---|---|---|
| R. C. Stephenson | Egbert Taylor | John L. Trumbo |
| Thomas M. Swope | Roy L. Taylor | C. R. Walden |
| C. W. Taylor | Rev. H. Tinsley | E. Reed Wilson |

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There voted in the negative—

Sherman E. Carter —1

Mr. Henry Ward moved that the vote by which said resolution was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Clerk's desk a resolution entitled:

H. Res. 24. Resolution authorizing personal representative of the estate of Walter Ramsey to sue the Commonwealth.

With an amendment thereto as proposed and adopted by the Senate.

(For resolution see House Journal of February 5.)

Said amendment as proposed and adopted by the Senate is as follows, viz.:

Amend H. Res. 24 by adding to the end thereof the following:

"Suit shall be for a sum not in excess of $10,000.00".

Said amendment was concurred in.

Said resolution was then passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Jerry F. Howell | B. W. Porter |
| Henry Arrowood | Chas. O. Humston | Kleber F. Price |
| William F. Ball | Joe B. Jarboe, Jr. | L. Allen Rhoads |
| Robert E. Barry | Crow Jarvis | Dr. J. J. Rice |
| Douglas T. Bolling | W. A. Lamkin | Byron H. Royster |
| H. M. Brock, Jr. | H. W. Linville | Dr. K. N. Salyer |
| Gus A. Brooks | A. L. Love | Carl Scheben |
| C. L. Clayton | William Lovett | Leon J. Shaikun |
| T. Fowler Combs | Harry K. Lowman | Faust Y. Simpson |
| Oris Cooper | Hugh D. Lyon | Clyde Smith |
| John Henry Cox | H. McCartney | Otto Smither |
| Rev. W. W. Crouch | Norris McPherson | Charles L. Spilman |
| Guthrie F. Crowe | Dr. Wm. C. Mann | James D. Stacey |
| Pink G. Curd | Ed. Marcum | J. Claude Stacy |
| Dr. J. A. Duff | C. C. May | R. C. Stephenson |
| Forest C. Easley | J. Milton Mefford | Thomas M. Swope |
| T. P. Fitzpatrick | D. J. Moore | C. W. Taylor |
| W. W. Freeman | J. Lee Moore | Egbert Taylor |
| Joseph J. Grace | E. R. Morlidge | Roy L. Taylor |
| P. Bert Hall | C. Sid Nabb | Rev. H. Tinsley |
| A. G. Hamilton, Jr. | Coy Nevitt | John L. Trumbo |
| Fuller Harding | Robert Nicholas | C. R. Walden |
| Clyde S. Howard | Paul Pelfrey | E. Reed Wilson |

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There voted in the negative—

Sherman E. Carter —1

Mr. Henry Ward moved that the vote by which said resolution was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Clerk's desk a resolution entitled:

H. Res. 23. Resolution authorizing the personal representative of the estate of Crate Ramsey to sue the Commonwealth.

With an amendment thereto as proposed and adopted by the Senate.

(For resolution see House Journal of February 5.)

Said amendment as proposed and adopted by the Senate is as follows, viz.:

Amend H. Res. 23 by adding to the end thereof the following:

"Said suit shall be for sum not in excess of ten thousand dollars ($10,000.00)".

Said amendment was concurred in.

Said resolution was then passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Gus A. Brooks | Guthrie F. Crowe |
| Henry Arrowood | C. L. Clayton | Pink G. Curd |
| William F. Ball | T. Fowler Combs | Dr. J. A. Duff |
| Robert E. Barry | Oris Cooper | Forest C. Easley |
| Douglas T. Bolling | John Henry Cox | T. P. Fitzpatrick |
| H. M. Brock, Jr. | Rev. W. W. Crouch | W. W. Freeman |

| | | |
|---|---|---|
| Joseph J. Grace | Dr. Wm. C. Mann | Carl Scheben |
| P. Bert Hall | Ed. Marcum | Leon J. Shaikun |
| A. G. Hamilton, Jr. | C. C. May | Faust Y. Simpson |
| Fuller Harding | J. Milton Mefford | Clyde Smith |
| Clyde S. Howard | D. J. Moore | Otto Smither |
| Jerry F. Howell | J. Lee Moore | Charles L. Spilman |
| Chas. O. Humston | E. R. Morlidge | James D. Stacey |
| Joe B. Jarboe, Jr. | C. Sid Nabb | J. Claude Stacy |
| Crow Jarvis | Coy Nevitt | R. C. Stephenson |
| W. A. Lamkin | Robert Nicholas | Thomas M. Swope |
| H. W. Linville | Paul Pelfrey | C. W. Taylor |
| A. L. Love | B. W. Porter | Egbert Taylor |
| William Lovett | Kleber F. Price | Roy L. Taylor |
| Harry K. Lowman | L. Allen Rhoads | Rev. H. Tinsley |
| Hugh D. Lyon | Dr. J. J. Rice | John L. Trumbo |
| H. McCartney | Byron H. Royster | C. R. Walden |
| Norris McPherson | Dr. K. N. Salyer | E. Reed Wilson |

—69

There voted in the negative—

Sherman E. Carter —1

Mr. Ward moved that the vote by which said resolution was passed as amended, be reconsidered and that said resolution be laid on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Clerk's desk, a resolution entitled:

H. Res. 22. Resolution authorizing Moses Ramsey to sue the Commonwealth.

With an amendment thereto as proposed and adopted by the Senate.

(For resolution see House Journal of February 5.)

Said amendment as proposed and adopted by the Senate, is as follows, viz.:

Amend H. Res. 22 by inserting at the end thereof the following:

"Said suit shall be for sum not in excess of ten thousand dollars ($10,000.00)".

Said amendment was concurred in.

Said resolution was then passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | P. Bert Hall | J. Milton Mefford |
| Henry Arrowood | A. G. Hamilton, Jr. | D. J. Moore |
| William F. Ball | Fuller Harding | J. Lee Moore |
| Robert E. Barry | Clyde S. Howard | E. R. Morlidge |
| Douglas T. Bolling | Jerry F. Howell | C. Sid Nabb |
| H. M. Brock, Jr. | Chas. O. Humston | Coy Nevitt |
| Gus A. Brooks | Joe B. Jarboe, Jr. | Robert Nicholas |
| C. L. Clayton | Crow Jarvis | Paul Pelfrey |
| T. Fowler Combs | W. A. Lamkin | B. W. Porter |
| Oris Cooper | H. W. Linville | Kleber F. Price |
| John Henry Cox | A. L. Love | L. Allen Rhoads |
| Rev. W. W. Crouch | William Lovett | Dr. J. J. Rice |
| Guthrie F. Crowe | Harry K. Lowman | Byron H. Royster |
| Pink G. Curd | Hugh D. Lyon | Dr. K. N. Salyer |
| Dr. J. A. Duff | H. McCartney | Carl Scheben |
| Forest C. Easley | Norris McPherson | Leon J. Shaikun |
| T. P. Fitzpatrick | Dr. Wm. C. Mann | Faust Y. Simpson |
| W. W. Freeman | Ed. Marcum | Clyde Smith |
| Joseph J. Grace | C. C. May | Otto Smither |

| | | |
|---|---|---|
| Charles L. Spilman | Thomas M. Swope | Rev. H. Tinsley |
| James D. Stacey | C. W. Taylor | John L. Trumbo |
| J. Claude Stacy | Egbert Taylor | C. R. Walden |
| R. C. Stephenson | Roy L. Taylor | E. Reed Wilson |

—69

There voted in the negative—

Sherman E. Carter

—1

Mr. Henry Ward moved that the vote by which said resolution passed as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Ordered that said resolutions be delivered to the Enrolling Clerk of this House.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 357. An Act to amend Section 3990-15 of Carroll's Kentucky Statutes, Baldwin's 1936 Edition.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Section 3990-15 of Carroll's Kentucky Statutes, Baldwin's 1936 Edition, be amended so that when so amended said section shall read as follows:

"During the months of January and July of each year the Division of Purchases shall advertise in one issue each of two newspapers of general circulation, published in this

State, a list of the materials, supplies and equipment usually purchased by the Division during the year, and shall request the filing of names and addresses of persons, firms or corporations, who are in position to and desire to bid on and furnish any of such materials, supplies or equipment, and the character and kind thereof, and any and all such names that are furnished or filed with the said state purchasing division, shall be recorded in some record book kept in the office, giving the name and address and such materials, supplies or equipment as each may be able and desires to bid on and furnish, and the said Division shall give reasonable written notice by mail of all proposed purchases, excepting purchases of less amount than three hundred ($300.00) dollars and the character thereof, to all persons, firms or corporations, according to articles handled by each as appears from said recorded list. Any persons, firms or corporations who are in a position to and desire to bid on and furnish any of the materials, supplies or equipment usually purchased by the Division of Purchases during the year may at any time file with such Division of Purchases its or their name or names, together with the character and kind of such materials, supplies and equipment which it or they may desire to bind on and furnish, and such names shall be recorded as hereinbefore provided, and such persons, firms and corporations shall mail to those so recorded reasonable written notice of all proposed purchases as hereinbefore provided for persons, firms or corporations who register in response to the newspaper advartisement hereinbefore provided for. Said notice by mail shall state also the time and place of receiving and opening binds, and any other information said Division may deem to be to the best interest of the State, and all said bids shall be made in writing, typewritten or in ink, sealed, and opened and read publicly by said Division as they are opened, and after due consideration contract shall be awarded to the lowest and best bidder, unless, in the discretion of said Division no satisfactory bid has been received, in which event any or all bids may be re-

jected, and new bids advertised for as herein provided, and pending delay said Division may make such purchases as will relieve pressing emergencies.

"In case any or all bids are rejected as unsatisfactory, or no bids are received, the said Division may negotiate purchase, at a price or prices lower than the lowest and best bid or bids rejected, of any or all of the materials, supplies or equipment proposed to be purchased.

"If any person, firm or corporation whose name is registered as herein provided for fails for the period of one year from the date of their registration to make any bid after having been mailed an invitation to bid as herein provided, the Division of Purchases shall mail to any such person, firm or corporation a notice to show cause ten (10) days from the date of the mailing of such notice why their names should not be removed from the register of those to whom invitations must be sent. If, in the judgment of the Division of Purchases any person, firm or corporation registered as herein provided shall, after having received awards of contract or purchase orders, persist in furnishing under such awards of contract or purchase orders materials, supplies or equipment in quantity or quality less than that contracted for by such award of contract or purchase order, the said Division shall mail to them notice to show cause ten (10) days from the date of the mailing of such notice why their names should not be removed from the register of those to whom invitations must be sent. If the person, firm or corporation to whom such notice to show cause is sent shall request a hearing on the question of the removal of his or their name from the registrar, such hearing shall be accorded him or them by the Division, but the decision of the Division as to the removal of the name from the register shall be final, provided that after a period of one year from the date of such removal any person, firm or corporation may register as herein provided."

§ 2. If the Kentucky Revised Statutes are enacted at

the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 42.070, and shall thereafter be treated as an amendment to KRS 42.070 rather than an amendment to § 3990-15 of Carroll's Statutes.

Mr. Henry Ward offered the following amendments to said bill, viz.:

1. Amend H. B. 357 on page 2, section 1, lines 25 and 26 by striking out the words "such persons, firms and corporations" and inserting in lieu thereof the following: "the Division of Purchases."

2. Amend H. B. 357 on page 2, section 1, line 39 by adding the following: "In the event no bids are received such emergency purchases may be made until new bids are advertised for and received. A statement setting forth the reason for each emergency purchase shall be filed as a part of the record on each emergency purchase."

3. Amend H. B. 357 on page 2, section 1, lines 40 and 41 by striking out the following:

"or not bids are received,".

4. Amend H. B. 357 on page 3, section 1 by adding the following as a new paragraph after line 65:

"Any violation of this Act shall be punished by a fine or not more than five thousand dollars ($5,000) or by a prison sentence of nor more than five (5) years, or by both fine and imprisonment in the discretion of the jury."

Said amendments were each and severally agreed to.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of

said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | William L. Jones | Kleber F. Price |
| Henry Arrowood | John S. Juett | James E. Quill |
| William F. Ball | W. A. Lamkin | L. Allen Rhoads |
| W. T. Beard | A. L. Love | Dr. J. J. Rice |
| Douglas T. Bolling | William Lovett | Dr. K. N. Salyer |
| H. M. Brock, Jr. | Harry K. Lowman | Carl Scheben |
| Sherman E. Carter | Hugh D. Lyon | Leon J. Shaikun |
| C. L. Clayton | H. McCartney | Faust Y. Simpson |
| T. Fowler Combs | Cary McDevitt | Clyde Smith |
| Oris Cooper | Norris McPherson | Otto Smither |
| Rev. W. W. Crouch | Dr. Wm. C. Mann | Charles L. Spilman |
| Guthrie F. Crowe | Ed. Marcum | James D. Stacey |
| Pink G. Curd | C. C. May | J. Claude Stacy |
| Dr. J. A. Duff | J. Milton Mefford | R. C. Stephenson |
| Forest C. Easley | D. J. Moore | Thomas M. Swope |
| Harry W. Ennis | J. Lee Moore | Egbert Taylor |
| T. P. Fitzpatrick | L. D. Moore | Roy L. Taylor |
| W. W. Freeman | C. E. Montgomery | Rev. H. Tinsley |
| Joseph J. Grace | E. R. Morlidge | John L. Trumbo |
| P. Bert Hall | C. Sid Nabb | S. J. Wagner |
| A. G. Hamilton, Jr. | Coy Nevitt | C. R. Walden |
| Fuller Harding | Robert Nicholas | Harry Walters |
| E. R. Hilton | H. C. Patterson | Henry Ward |
| Jerry F. Howell | Paul Pelfrey | H. L. Waterfield |
| Chas. O. Humston | B. W. Porter | E. Reed Wilson |

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Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill

was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 245. An Act providing that public financial statements shall be filed with the Auditor of Public Accounts.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. It shall be the duty of all public officers who are required to publish the financial statements as provided for under section 3747a-1, Kentucky Statutes, to file with the Auditor of Public Accounts on or before the 31st day of August of each year a copy of the newspaper containing such financial statement.

Section 2. Any officer who shall fail to file said copy of the newspaper containing said financial statement which such officer is required to make, at the time required, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00) at the discretion of the court or jury trying the case.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Chas. O. Humston | L. Allen Rhoads |
| Henry Arrowood | Crow Jarvis | Dr. J. J. Rice |
| W. T. Beard | William L. Jones | Byron H. Royster |
| Robert E. Beatty | W. A. Lamkin | Dr. K. N. Salyer |
| Douglas T. Bolling | H. W. Linville | Carl Scheben |
| H. M. Brock, Jr. | A. L. Love | Leon J. Shaikun |
| Gus A. Brooks | Hugh D. Lyon | Faust Y. Simpson |
| Sherman E. Carter | H. McCartney | Clyde Smith |
| Oris Cooper | Cary McDevitt | Charles L. Spilman |
| M. A. Cornett | Dr. Wm. C. Mann | James D. Stacey |
| John Henry Cox | Ed. Marcum | R. C. Stephenson |
| Rev. W. W. Crouch | C. C. May | Thomas M. Swope |
| Guthrie F. Crowe | J. Milton Mefford | C. W. Taylor |
| Pink G. Curd | D. J. Moore | Egbert Taylor |
| Dr. J. A. Duff | L. D. Moore | Roy L. Taylor |
| Forest C. Easley | C. E. Montgomery | Rev. H. Tinsley |
| Harry W. Ennis | F. E. Morancy | John L. Trumbo |
| John D. Fields | E. R. Morlidge | Erna E. Tyra |
| T. P. Fitzpatrick | C. Sid Nabb | S. J. Wagner |
| Joseph J. Grace | Coy Nevitt | C. R. Walden |
| P. Bert Hall | H. C. Patterson | Harry Walters |
| Joe Higgins | Paul Pelfrey | Henry Ward |
| E. R. Hilton | B. W. Porter | H. L. Waterfield |
| Clyde S. Howard | Kleber F. Price | E. Reed Wilson |
| Jerry F. Howell | James E. Quill | —74 |

There voted in the negative—

Fuller Harding —1

Resolved that the title thereof be as aforesaid.

Mr. Walden moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules the House took up for consideration from the Orders of the Day, a bill entitled:

H. Res. 32. Joint Resolution providing for payment of ministers of the churches of Frankfort, Kentucky, for performing the duties of chaplain for the General Assembly.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That the sum of Eight Hundred Dollars ($800.00) is hereby appropriated out of the Legislative Session Fund, One Hundred Dollars ($100.00) of which is to be paid to each of the following named ministers of Frankfort, Kentucky, performing the duties of chaplain for the General Assembly:

H. W. Alexander, E. W. Baxter, A. C. Brooks, Donald H. Stewart, C. Wm. Grant, Chas. R. Thrasher, Fred T. Moffatt, and Joseph A. O'Dwyer.

That the Chief Clerk of the Senate shall certify this resolution to the Commissioner of Finance, who shall draw his warrant upon the State Treasurer for the amounts above designed and the State Treasurer shall pay the same.

WHEREAS, all employees of the General Assembly have been promptly paid for their services, and said ministers have been faithful in attending as chaplain, and are also entitled to prompt payment, an emergency is hereby declared to exist and this resolution shall take effect from and after its passage and approval by the Governor.

--Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| Robert E. Barry | Joe B. Jarboe, Jr. | Kleber F. Price |
| W. T. Beard | Crow Jarvis | James E. Quill |
| Robert E. Beatty | John S. Juett | L. Allen Rhoads |
| Douglas T. Bolling | W. A. Lamkin | Dr. J. J. Rice |
| T. Fowler Combs | H. W. Linville | Carl Scheben |
| M. A. Cornett | Norris McPherson | Leon J. Shaikun |
| John Henry Cox | Ed. Marcum | Faust Y. Simpson |
| Guthrie F. Crowe | C. C. May | Clyde Smith |
| Pink G. Curd | J. Milton Mefford | Charles L. Spilman |
| Dr. J. A. Duff | D. J. Moore | J. Claude Stacy |
| Forest C. Easley | J. Lee Moore | R. C. Stephenson |
| Harry W. Ennis | L. D. Moore | C. W. Taylor |
| T. P. Fitzpatrick | C. E. Montgomery | Egbert Taylor |
| Joseph J. Grace | F. E. Morancy | Roy L. Taylor |
| P. Bert Hall | E. R. Morlidge | Rev. H. Tinsley |
| A. G. Hamilton, Jr. | C. Sid Nabb | S. J. Wagner |
| Joe Higgins | Robert Nicholas | Harry Walters |
| Clyde S. Howard | H. C. Patterson | E. Reed Wilson |
| Chas. O. Humston | B. W. Porter | |

—56

Those who voted in the negative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | E. R. Hilton | Otto Smither |
| Henry Arrowood | Jerry F. Howell | James D. Stacey |
| H. M. Brock, Jr. | William L. Jones | Thomas M. Swope |
| Gus A. Brooks | A. L. Love | John L. Trumbo |
| Sherman E. Carter | Hugh D. Lyon | Erna E. Tyra |
| Oris Cooper | H. McCartney | C. R. Walden |
| Rev. W. W. Crouch | Cary McDevitt | Henry Ward |
| John D. Fields | Coy Nevitt | H. L. Waterfield |
| W. W. Freeman | Paul Pelfrey | |
| Fuller Harding | Byron H. Royster | |

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Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day a bill entitled:

H. B. 259. An Act to establish Cooperative Live Stock Protective Associations, providing for the incorporation of same, providing for the collection of assessments from members and for payment of claims to members for the death and destruction of live stock resulting from depredation, disease, and death caused by dogs and other causes, providing for the organization, registration, operation, and dissolution of said corporation and repealing all laws in conflict.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

1. DECLARATION OF POLICY.—In order to promote, foster, and encourage the raising of live stock in the State and for the further purpose of permitting live stock producers to organize under the laws of Kentucky and form Cooperative Live Stock Corporations whereby the members thereof may associate themselves together for protection under the laws of the State and through such association provide a suitable means to the members and for reimbursing said members for losses of live stock due to depredation, disease and death caused by attacks from dogs and other causes, this law is enacted.

2. DEFINITIONS.—As used in this Act, unless the content for such requires otherwise, the term (1) "Live Stock" shall mean sheep, cattle, hogs, horses, jacks, mules, poultry or any other animal or bird commonly kept on the farm. (2) The term "Farmer" shall mean any individual, firm, partnership, corporation or farm management group which derives a portion or all of its income from the production of live stock domiciled on a farm within the Commonwealth. (3) The term "Member" shall include actual members of the association organized under this Act. (4) The term "Association" means any corporation organized under this Act. (5) The term "Department" shall mean the Department of Agriculture, Labor and Statistics.

Associations organized hereunder shall be termed non-profit inasmuch as they are not organized to make profit for themselves.

3. WHO MAY ORGANIZE.—Any Twenty (20) or more farmers who are residents of this State, whether they own the land they farm or not, may form a non-profit Live Stock Protective Corporation without capital stock under the provisions of this Act.

4. PURPOSES.—An association may be organized in any section of the State for the purpose of affording protection to the farmers in that locality in the raising of live stock on their farms.

5. ARTICLES OF INCORPORATION.—Each association formed under this Act must prepare and file Articles of Incorporation, setting forth:

(a) The name of the association.

(b) The place where its principal business will be transacted

(c) The term for which it is to exist; the number of directors thereof which must not be less than five (5) and may

be any number in the excess thereof; the term of office of such directors; and the names and addresses of those who are to serve as incorporating directors for the first term, or until election and qualification of their successors.

(d) Define the property rights of the members and whether the interest of each member will be equal or unequal; and if unequal, the rule or rules applicable to all members by which the property rights and interests, respectively, of each member shall be determined and fixed; and provision for the admission of new members who shall be entitled to share in the property of the association with the old members, in accordance with such general rule or rules.

6. AMEDMENTS TO ARTICLES OF INCORPORATION.—The Articles of Incorporation may be altered or amended at any regular or special meteing called for that purpose. An amendment must first be approved by two-thirds (2/3) of the directors and then adopted by a vote representing a majority of all the members of the association. Amendments to the Articles of Incorporation, when so adopted, shall be filed in accordance with the provisions of the general corporation law of this State. The fee to be charged by the Secretary of State for filing such amendments shall be One ($1.00) Dollar.

7. SUBSCRIPTION OF THE ACTICLES OF INCORPORATION, PROVISIONS FOR FILING AND FEE TO BE CHARGED THEREFOR.—The Articles of Incorporation must be subscribed by the incorporators and acknowledged by one of them before an officer authorized by the law of this State to take and certify acknowledgments of deeds and conveyances; and shall be filed in accordance with the provisions of the general corporation law of this State; and when so filed the said Articles of Incorporation, or copies thereof shall be received in all the courts of this State and other places as prima facie evidence of the facts contained therein and of the due incorporation of such association. A

certified copy of the Articles of Incorporation shall also be filed with the Department of Agriculture of the State of Kentucky within ten (10) days after the filing of the Articles of Incorporation with the County Court Clerk of the County in which is located the principal place of business of the association; copy of said Articles of Incorporation must be filed with the Secretary of State of the State of Kentucky and the corporation may proceed to do business after such Articles have been duly filed. The said County Court Clerk shall be entitled to a filing fee of $2.50 for Articles of Incorporation so filed and the said Secretary of State shall be entitled to a fee of $2.50 for Articles so filed and such fees are to be in lieu of all other fees charged by either of these officers.

8. BY-LAWS.—Each association incorporated under this Act must, within thirty (30) days after its incorporation, adopt for its government and management, a code of By-laws, not inconsistent with the powers granted by this Act. A majority vote of the members, or their written assent, is necessary to adopt such By-laws. Each association, under its By-laws, may provide for any or all of the following matters:

(a) The time, place, and manner of calling and conducting its meetings.

(b) The number of members constituting a quorum.

(c) The right of members to vote by proxy or by mail or both; and the conditions, manner, form, and effects of such votes.

(d) The number of directors constituting a quorum.

(e) The qualifications, compensation, and duties and term of office of directors and officers; time of their election and the mode and manner of giving notice thereof.

(f) Penalties for violations of the By-laws.

(g) The amount of entrance, organization, and membership fees, if any; the manner and method of collection of the same; and the purposes for which they may be used.

(h) The amount which each member shall be required to pay annually or from time to time, if at all, to carry on the business of the association; the charge, if any, to be paid by each member or stockholder for services rendered by the association to him and the time of payment and the manner of collection.

(i) The method of appraisal of livestock and the manner of payment of indemnities for same.

(j) The number and qualification of members of the association and the condition precedent to membership; the method, time, and manner of permitting members to withdraw; the manner of assignment and transfer of the interest of members; the conditions upon which and time when membership of any member shall cease; the automatic suspension of the rights of a member when he ceases to be eligible to membership in the association; and the mode, manner, and effect of the expulsion of a member; the manner of determining the value of a member's interest and provision for its purchase by the association upon the death of withdrawal of a member, or upon the expulsion of a member or forefeiture of his membership, or, at the option of the association, the purchase of a fixed price by conclusive appraisal by the board of directors. In case the board of directors shall equitably and conclusively appraise his property interests in the association and shall fix the amount thereof in money, which shall be paid to him within one year after such expulsion or withdrawal.

9. GENERAL AND SPECIAL MEETINGS: HOW CALLED.—In its By-laws, each association shall provide for one or more regular meetings annually. The board of directors shall have the right to call a special meeting at any time; and ten per cent of the members may file a petition stating the specific business to be brought before the assiciation and demand a special meeting at any time. Such meeting must thereupon be called by the directors. Notice of all meet-

ings, together with a statement of the purposes thereof, shall be mailed to each member at least ten days prior to the meeting; provided, however, that the By-laws may require instead that such notice may be given by publication in a newspaper of general circulation, published at the principal place of business of the association.

10. DIRECTORS: ELECTION.—The affairs of the association shall be managed by a board of not less than five directors, elected by the members from their own number. The By-laws may provide that the territory in which the association has members shall be divided into districts and that the directors shall be elected according to such districts, either directly or by district delegates elected by the members in that district. In such a case the By-laws shall specify the number of directors to be elected by each district, the manner and method of reapportioning the directors and of redistricting the territory covered by the association. The By-laws may provide that primary elections shall be held in each district to elect the directors apportioned to such districts and that the result of all such primary elections may be ratified by the next regular meeting of the association or may be considered final as to the association. The By-laws may provide that one of more directors may be appointed by any public official or commission or by the other directors selected by the members or their delegates. Such directors shall represent primarily the interest of the general public in such associations. The director or directors so appointed need not be members of the assocmiation; but shall have the same powers and rights as other directors. Such directors shall not number more than one-fifth of the entire number of directors.

An assocation may provide a fair remuneration for the time actually spent by its officers and directors in its service and for the service of the members of its executive committee. No director, during the term of his office, shall be

a party to a contract for profit with the association differing in any way from the business relations accorded regular members of the association or others, or differing from terms generally current in that district.

The By-laws may provide for an executive committee and may allot to such committee all the functions and powers of the board of directors, subject to the general direction and control of the board.

When a vacancy on the board of directors occurs other than by expiration of term, the remaining members of the board, by a majority vote, shall fill the vacancy, unless the By-laws provide for an election of directors by district. In such a case the board of directors shall immediately call a special meeting of the members in that district to fill the vacancy.

11. ELECTION OF OFFICERS.—The directors shall elect from their number a president and one or more vice presidents. They shall also elect a secretary and a treasurer, who need not be directors or members of the association; and they may combine the two latter offices and designate the combined office as secretary-treasurer; or unite both functions and titles in one person. The treasurer may be a bank or any depository, and as such, shall not be considered as an officer, but as a function of the board of directors. In such case, the secretary shall perform the usual accounting duties of the treasurer, excepting that the funds shall be deposited only as and where authorized by the board of directors.

12. REMOVAL OF OFFICER OR DIRECTOR.—Any member may bring charges against an officer or director by filing them in writing with the secretary of the association, together with a petition signed by five percent of the members, requesting the removal of the officer or director in question. The removal shall be voted upon at the next regular or special meeting of the association and, by a vote of a majority

of the members, the association may remove the officer or director and fill the vacancy. The director or officer against whom such charges have been brought, shall be informed in writing of the charges previous to the meeting and shall have an opportunity at the meeting to be heard in person or by counsel and to present witnesses; and the person or persons bringing the charges against him shall have the same opportunity.

In case the By-laws provide for election of directors by districts with primary elections in each district, then the petition for removal of a director must be signed by twenty per cent of the members residing in the district from which he was elected. The board of directors must call a special meeting of the members residing in that district to consider the removal of the director; and by a vote of the majority of the members of that district, the director in question shall be removed from office.

13. REFERENDUM.—Upon demand of one-third of the entire board of directors any matter that has been approved or passed by the board must be referred to the entire membership for decision at the next special or regular meeting; provided, however, that a special meeting may be called for that purpose.

14. ASSOCIATIONS HERETOFORE ORGANIZED MAY ADOPT THE PROVISIONS OF THIS ACT.—Any corporation or association organized under previously existing statutes may, by a majority vote of its members, be brought under the provisions of this Act by limiting its membership and adopting the other restrictions as provided herein. It shall make out in duplicate a statement signed and sworn to by its directors to the effect that the corporation or association has, by a majority vote of the members, decided to accept the benefits and be bound by the provisions of this Act and has authorized all changes accordingly. Articles of

Incorporation shall be filed as herein required except that they shall be signed by the members of the then board of directors. The filing fee shall be the same as for filing an amendment to Articles of Incorporation.

Where any association may be incorporated under this Act, all contracts heretofore made by or on behalf of same by the promoters thereof in anticipation of such association becoming incorporated under the laws of this State, whether such contracts be made by or in the name of some corporation organized elsewhere and when same would have been valid if entered into subsequent to the passage of this Act, are hereby validated as if made after the passage of this Act.

15. MEMBERS NOT LIABLE FOR ASSOCIATION DEBTS.—No member shall be liable for the debts of the association to an amount exceeding the sum remaining unpaid on his membership fee, including any unpaid balance on any promissory notes given in payment thereof.

16. SECTIONS OF ACT DECLARED SEVERABLE. —All laws or parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict. The provisions of this Act are hereby declared to be severable, it being the intention of the General Assembly to enact each section separately, and if any such Acts or parts of Acts be held invalid for any cause the remainder of this Act shall continue in full force and effect, it being the legislative intent now hereby declared that this Act would have been adopted even if such unconstitutional or void matter had not been included therein.

17. STATE DEPARTMENT OF AGRICULTURE DIRECTED TO COOPERATE.—The State Department of Agriculture of the Commonwealth of Kentucky is hereby directed to assist in the organization of any association desiring to incorporate under the provisions of this Act when re-

quested to do so in writing by any twenty or more eligible persons residing within the State.

Mr. Waterfield offered the following amendments to said bill, viz.:

1. Amend H. B. 259 on page 2, section 3, line 2 after the word "of" and before the word "this" add the following "one or not more than five counties of".

2. Amend H. B. 259 on page 4, section 8, lines 4 and 5 by striking the entire sentence beginning with the word "A" in line 4 and ending with the word "By-laws" in line 5 and insert in lieu thereof the following:
"Such By-Laws shall be adopted by a majority of the Board of Directors."

3. Amend H. B. 259 on page 9 after Section 17 by adding the following section.

18. Associations incorporated under the provisions of this Act shall be exempt from the provisions of law, now or hereafter enacted, relating to insurance companies or other organization of a like or similar nature.

Said amendments were each and severally agreed to.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Jerry F. Howell | Kleber F. Price |
| Henry Arrowood | Chas. O. Hunnston | James E. Quill |
| William F. Ball | Joe B. Jarboe, Jr. | L. Allen Rhoads |
| Robert E. Barry | Crow Jarvis | Dr. J. J. Rice |
| W. T. Beard | William L. Jones | Byron H. Royster |
| Robert E. Beatty | John S. Juett | Dr. K. N. Salyer |
| Douglas T. Bolling | H. W. Linville | Carl Scheben |
| H. M. Brock, Jr. | A. L. Love | Clyde Smith |
| Gus A. Brooks | William Lovett | Otto Smither |
| T. Fowler Combs | Hugh D. Lyon | Charles L. Spilman |
| M. A. Cornett | Cary McDevitt | James D. Stacey |
| John Henry Cox | Norris McPherson | J. Claude Stacy |
| Pink G. Curd | Ed. Marcum | R. C. Stephenson |
| Dr. J. A. Duff | C. C. May | Thomas M. Swope |
| Forest C. Easley | J. Milton Mefford | C. W. Taylor |
| Harry W. Ennis | D. J. Moore | Egbert Taylor |
| John D. Fields | J. Lee Moore | Rev. H. Tinsley |
| T. P. Fitzpatrick | C. E. Montgomery | John L. Trumbo |
| W. W. Freeman | F. E. Morancy | Erna E. Tyra |
| Joseph J. Grace | E. R. Morlidge | S. J. Wagner |
| P. Bert Hall | C. Sid Nabb | C. R. Walden |
| A. G. Hamilton, Jr. | Coy Nevitt | Harry Walters |
| Joe Higgins | Robert Nicholas | Henry Ward |
| E. R. Hilton | H. C. Patterson | H. L. Waterfield |
| Clyde S. Howard | B. W. Porter | E. Reed Wilson |

—75

There voted in the negative—

Oris Cooper —1

Resolved that the title thereof be as aforesaid.

Mr. Waterfield moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

By Order of the Speaker and without objection, the session of today was extended inedfinitely.

Mr. Beard of the Committee on Enrollment, reported that they had examined and found to be correctly enrolled, bills and resolution of the following titles, viz.:

S. B. 4. An Act providing for consolidation of counties.

S. B. 74. An Act relating to conversion and wrongful use of water, electric current etc.

S. B. 89. An Act relating to old age assistance.

S. B. 96. An Act authorizing counties, municipalities and other taxing districts to invest their sinking funds.

S. B. 90. An Act adding to the primary system of roads.

H. B. 83. An Act relating to public parks in cities of the second class.

H. B. 214. An Act to provide for the conservation of wild animals, wild birds, fish and amphibians.

H. Res. 30. Resolution ratifying and approving interstate compact to conserve oil and gas.

Thereupon all other business was suspended, said bills and resolution were read at length and compared in open session and found to be correctly enrolled, and thereupon the Speaker in open session and in the presence of the House affixed his signature thereto.

Ordered that said bills which originated in the Senate, be delivered to the Enrolling Clerk of the Senate.

Ordered that the Enrolling Clerk of this House deliver the bills and resolution which originated in this House to the Senate.

After a time the Enrolling Clerk aforesaid delivered the original and enrolled copies of said bills and resolution, duly signed by the President of the Senate, into the possession of the Chief Clerk of this House.

Ordered that the Chief Clerk deliver said bills and resolution to the Governor.

After a time the Chief Clerk aforesaid, reported that he had delivered said bills and resolution to the Governor.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 81. An Act relating to the city manager form of government for cities.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 3235dd-42 of Carroll's Kentucky Statutes, 1936 Edition, is amended to read as follows:

"(1) Every ordinance or resolution ordering the construction or reconstruction of any street or sewer, or making or authorizing any contract involving the expenditure of more than one thousand dollars, or granting any franchise of the right to use or occupy the streets, highways, bridges, or public places of the city for any except a merely temporary purpose shall after its introduction and before its adoption remain on file at least one week for public inspection in the completed

form in which it shall be put upon its final passage. No such ordinance or resolution shall go into effect until the expiration of ten days after its passage, except in case of emergency the public health or safety shall require that it take immediate effect, which fact shall be declared by the unanimous vote of the board of commissioners.

"(2) Before a city of the second class shall enter into any contract involving the expenditure of more than one thousand dollars the board of commissioners shall by resolution specify the nature of the work to be contracted for, or the quality and quantity of the supplies or material to be purchased, and authorize the city manager to advertise for and receive bids under seal for the execution of such work or the purchase of such supplies or material. The city manager shall advertise for bids by notice posted up at the city hall door and by inserting notice of the request for bids in at least one issue of a daily newspaper published in the city, and the notices shall be published at least seven days prior to the opening of bids. No bid shall be opened within ten days from the date on which the resolution is adopted, and no bid shall be received after the hour fixed for the opening of bids. All bids received by the city manager up to the time fixed by the resolution for the opening of bids shall be filed with the board of commissioners who may let the contract to the lowest responsible bidder. The city manager may, for and on behalf of the city, enter into any contract involving the expenditure of one thousand dollars or less, but in the event such contract involves the expenditure of more than five hundred dollars he shall advertise foor bids in the manner provided in this subsection and let the contract to the lowest responsible bidder. The board of commissioners or the city manager may reject all bids, in which event they may advertise for new bids in the manner provided in this subsection."

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, subsection (1)

of section one of this Act shall stand repealed as of the effective date of the Kentucky Revised Statutes, subsection (2) of section one shall be treated as being subsection (2) of KRS 89.590, and KRS 89.590 shall otherwise remain in full force and effect.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Crow Jarvis | Kleber F. Price |
| Henry Arrowood | John S. Juett | L. Allen Rhoads |
| William F. Ball | W. A. Lamkin | Dr. J. J. Rice |
| Robert E. Barry | H. W. Linville | Byron H. Royster |
| W. T. Beard | A. L. Love | Dr. K. N. Salyer |
| Robert E. Beatty | William Lovett | Carl Scheben |
| H. M. Brock, Jr. | Hugh D. Lyon | Faust Y. Simpson |
| T. Fowler Combs | H. McCartney | Clyde Smith |
| M. A. Cornett | Cary McDevitt | Otto Smither |
| Rev. W. W. Crouch | Norris McPherson | Charles L. Spilman |
| Guthrie F. Crowe | Dr. Wm. C. Mann | James D. Stacey |
| Pink G. Curd | Ed. Marcum | R. C. Stephenson |
| Forest C. Easley | C. C. May | C. W. Taylor |
| Harry W. Ennis | J. Milton Mefford | Egbert Taylor |
| John D. Fields | D. J. Moore | Rev. H. Tinsley |
| T. P. Fitzpatrick | J. Lee Moore | John L. Trumbo |
| W. W. Freeman | L. D. Moore | Erna E. Tyra |
| Joseph J. Grace | C. E. Montgomery | S. J. Wagner |
| P. Bert Hall | F. E. Morancy | C. R. Walden |
| Joe Higgins | E. R. Morlidge | Harry Walters |
| E. R. Hilton | C. Sid Nabb | Henry Ward |
| Clyde S. Howard | Coy Nevitt | H. L. Waterfield |
| Chas. O. Hunston | Robert Nicholas | E. Reed Wilson |
| Joe B. Jarboe, Jr. | B. W. Porter | |

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There voted in the negative—

William L. Jones —1

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 340. An Act relating to licenses for race tracks.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 4223b-7 of Carroll's Kentucky Statutes, 1936 Edition, is amended to read as follows:

Any such race track located within a county with a population of two hundred thousand or over shall pay for each day upon which races are conducted at such track for any stake, purse or prize a license tax of twenty-five hundred dollars per day. Any such track located within a county having a population of not less than one hundred thousand and not more than two hundred thousand shall pay for each day upon which races are conducted at said track for any stake, purse or prize a license tax of one thousand dollars per day. Any such race track located in any other county shall pay for each day upon which races are conducted for any stake, purse or prize a license tax of five hundred dollars per day.

§ 2. If the Kentucky Revised Statutes are enacted at

the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of subsection (2) of KRS 137.170, and thereafter be treated as an amendment to subsection (2) of KRS 137.170 rather than an amendment to § 4223b-7 of Carroll's Statutes.

§ 3. Inasmuch as it is necessary that the license tax on race tracks should be fixed before the opening of the racing season, and in the regular course this act would not become effective before that time, an emergency is hereby declared to exist and this act shall take effect upon its passage and approval by the Governor.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Harry W. Ennis | W. A. Lamkin |
| Henry Arrowood | John D. Fields | H. W. Linville |
| William F. Ball | T. P. Fitzpatrick | A. L. Love |
| W. T. Beard | W. W. Freeman | William Lovett |
| Robert E. Beatty | Joseph J. Grace | Harry K. Lowman |
| Douglas T. Bolling | Fuller Harding | Hugh D. Lyon |
| H. M. Brock, Jr. | Joe Higgins | H. McCartney |
| Gus A. Brooks | Clyde S. Howard | Cary McDevitt |
| T. Fowler Combs | Chas. O. Humston | Norris McPherson |
| M. A. Cornett | Joe B. Jarboe, Jr. | Dr. Wm. C. Mann |
| John Henry Cox | Crow Jarvis | Ed. Marcum |
| Dr. J. A. Duff | William L. Jones | C. C. May |
| Forest C. Easley | John S. Juett | J. Milton Mefford |

| | | |
|---|---|---|
| D. J. Moore | L. Allen Rhoads | J. Claude Stacy |
| J. Lee Moore | Dr. J. J. Rice | R. C. Stephenson |
| C. E. Montgomery | Byron H. Royster | Egbert Taylor |
| F. E. Morancy | Dr. K. N. Salyer | Rev. H. Tinsley |
| W. R. Morlidge | Carl Scheben | John L. Trumbo |
| C. Sid Nabb | Leon J. Shaikun | S. J. Wagner |
| Robert Nicholas | Faust Y. Simpson | C. R. Walden |
| H. C. Patterson | Clyde Smith | Henry Ward |
| B. W. Porter | Otto Smither | H. L. Waterfield |
| Kleber F. Price | Charles L. Spilman | E. Reed Wilson |
| James E. Quill | James D. Stacey | —71 |

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the following bills were introduced, viz.:

By Mr. Curd.

H. B. 376. An Act relating to coin-operated mechanical musical devices.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. A license tax of ten dollars per annum is hereby imposed for each coin-operated mechanical musical device operated in this state. The tax shall be collected as other license taxes are now collected as provided in Chapter 173 of the Acts of 1940. The provisions of that chapter shall be ap-

plicable to this Act, except as provided in section 4 of this Act.

§ 2. No license shall be issued for any coin-operated mechanical musical device which is a gambling device or has attached to it or is operated in connection with a gambling device. As used in this Act a gambling device means any coin-operated device which at interval pays or entitled the operator to receive coins, tokens, or merchandise.

§ 3. No person shall own, lease, posses, use, operate or permit to be operated any coin-operated mechanical musical device as described in section 2, whether licensed or not, and any person who violates the provisions of this section shall be fined a sum not less than one hundred dollars nor more than five hundred dollars, and any device described in section 2 shall be confiscated by the court which convicts any person of violating the provisions of section 3 of this Act.

§ 4. The proceeds of the tax imposed by this Act are hereby appropriated, for the fiscal years ending June 30, 1943, and June 30, 1944, for the operation and administration of Old Age Assistance.

By Mr. Henry Ward.

H. B. 377. An Act relating to elections.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. KRS 118.070 is amended to read as follows:

(1) Except as provided in KRS 118.110, and subject to the provisions of subsections (2) and (3) of this section, the county clerk of each county shall cause to be printed on the

ballots for the regular election the names of the following persons:

(a) Candidates of a political party, as defined in KRS 119.010, who have received certificates of nomination at the preceding primary election, or certificates of nomination under KRS 119.090, and whose certificates of nomination have been filed with the clerk or the Secretary of State as provided in KRS 118.120, 118.130 and 119.090.

(b) Candidates of a political party, as defined in KRS 119.010, who have been nominated for an unexpired term in a manner determined by the governing authority of the party, as provided in KRS 119.030, and whose evidences of nomination have been filed with the clerk or the Secretary of State within the time prescribed in KRS 118.130.

(c) Candidates of a politcal party, as defined in KRS 119.010, who have been nominated by the governing authority of the party to fill a vacancy in the candidacy of a person nominated at the preceding primary election, as provided in KRS 119.020, and whose certificates of nomination have been filed with the clerk or the Secretary of State in sufficient time before the regular election to enable their names to be printed on the ballots at the time the ballots are required to be printed.

(d) Candidates who have been nominated by a political organization as provided in KRS 118.090, and whose certificates or petitions of nomination have been filed with the clerk or the Secretary of State within the time prescribed in KRS 118.130.

(e) Candidates who have been nominated by petitions as provided in KRS 118.080, and whose petitions of nomination have been filed with the clerk or the Secretary of State within the time prescribed in KRS 118.130.

(f) Candidates for President and Vice President of the United States, of those political parties and organizations

who have nominated presidential electors as provided in KRS 118.090, where the certificate of nomination of such electors has been filed with the Secretary of State within the time prescribed in KRS 118.130.

(2) Those candidates whose petitions or certificates of nomination are required by law to be filed with the Secretary of State shall have their names printed on the ballots when certified to the county clerk as provided in KRS 118.150.

(3) Candidates for members of boards of education shall have their names printed on ballots for the regular election only when nominated as provided in KRS 160.220.

(4) Except as provided in KRS 119.020 and 119.030, the name of no candidate shall be printed upon the ballots for any regular election as the nominee of any political party, as defined in KRS 119.010, or under the emblem of any political party, as so defined, except those candidates who have been duly and regularly nominated as nominees of that party at a primary election held as provided in Chapter 119.

(5) No county clerk shall knowingly cause to be printed, upon the ballot for any regular election, the name of any candidate of a political party, as defined in KRS 119.010, who has not been nominated in the manner provided in the primary election laws.

§ 2. KRS 118.090 is amended to read as follows:

(1) Any political organization not constituting a political party within the meaning of KRS 119.010 but which cast two percent of the total vote of the state at the last preceding regular election may nominate, by a convention or primary election held by the party in accordance with its constitution and bylaws, candidates for any offices to be voted for at any regular election, except the office of member of a board of education, for which nominations shall be made as provided in KRS 160.220. Any political party, as defined in KRS

119.010, may nominate candidates for members of legislative bodies of cities of the fifth and sixth classes in the same manner. Any political party, as defined in KRS 119.010, and any political organization not constituting such a political party but which case two percent of the total vote of the state at the last preceding regular election, may nominate, by a convention or primary election held by the party or organization in accordance with its constitution and bylaws, as many electors of President and Vice President of the United States as this state is entitled to elect.

(2) The certificate of nomination by such a convention or primary election shall be in writing, shall contain the name of each person nominated, his residence and the office to which he is nominated, and shall designate a title for the party or principle that such convention or primary election represents, together with any simple figure or device by which its list of candidates may be designated on the ballots. The certificate shall be signed by the presiding officer and secretary of the convention, or by the chairman and secretary of the county, city or district committee, who shall add to their signatures their respective places of residence, and acknowledge the same before an officer duly authorized to administer oaths. A certificate of the acknowledgment shall be appended to the certificate of nomination. In the case of electors of President and Vice President of the United States the certificate of nomination shall state the names of the candidates of the party for President and Vice President.

(3) If the certificate of nomination of any state convention requests that the figure or device selected by such convention be used to designate the candidates of such party on the ballots for all elections throughout the state, that figure or device shall be used until changed by request of a subsequent state convention of the same party. The device may be any appropriate symbol other than the coat of arms or seal

of this state or of the United States, the National Flag, or any other emblem common to the people at large.

(4) In case of death, reesignation or removal of any such candidate subsequent to nomination and before the ballots are printed, the chairman of the state, county or city district committee shall fill the vacancy, unless a supplemental certificate or petition of nomination is filed. In the case of electors of President and Vice President of the United States, a vacancy may be filled by the chairman of the state committee at any time before the meeting of the electors, whether the vacancy occurs before or after the election.

(5) If any political party entitled to nominate by convention fails to do so, the names of all nominees by petition for any office who are designated in their petition as members and candidates of that party shall be printed under the device and title on the ballots as if nominated by a convention. If two or more persons who have filed certificates of nomination under this section claim to be the nominee of the same political party, the governing authority of that party shall designate to the Secretary of State and county clerk, in writing, which of the candidates is entitled to the party emblem. If there are two or more contending executive committees of the same party in the county or district, the county or district executive committee that is recognized by the state governing authority of the party, by the written certificate of its chairman, shall be recognized by the Secretary of State and county clerk.

§ 3. KRS 118.130 is amended to read as follows:

(1) Certificates of nomination issued by the State Board of Election Commissioners shall be filed by that board with the Secretary of State immediately. Such certificates issued by the county election commission shall be filed by that commission with the county clerk immediately.

(2) Certificates of nomination made by the governing authority of a party to fill vacancies in office, as provided in KRS 119.030, shall, when required to be filed with the Secretary of State, be filed not less than forty days before the day fixed by law for the election of the person in nomination. When required to be filed with the county court clerk, they shall be filed not less than thirty days before the day fixed by law for the election of the person in nomination.

(3) Except as provided in subsection (4) of this section, petitions and certificates of nomination made under KRS 118.080 and 118.090, when required to be filed with the Secretary of State, shall be filed not less than forty days before the day fixed by law for the holding of primary elections. When required to be filed with the county court clerk, they shall be filed not less than thirty days before the day fixed by law for the holding of primary elections.

(4) Petitions and certificates of nomination made under KRS 118.080 and 118.090 for the nomination of candidates for city offices or of candidates for members of boards of education shall be filed not less than fifteen nor more than sixty days before the day fixed by law for the election of the person in nomination, except that where any independent graded school district comprises parts of two or more counties the petitions or certificates shall be filed wth the Secretary of State not less than forty days prior to the day fixed for the election of the person in nomination. Certificates of nomination for electors of President and Vice President of the United States shall be filed with the Secretary of State not less than forty days prior to the date fixed by law for the election of such electors.

§ 4. KRS 118.150 is amended to read as follows:

(1) Immediately after the expiration of the period prescribed in subsections (2) and (3) of KRS 118.130 in which certificates and petitions of nomination may be filed with the

Secretary of State, the Secretary of State shall certify, to the county clerks of the various counties that are entitled to participate in the election of the respective candidates, the name and place of residence of each candidate for each office, as specified in the certificates and petitions of nomination filed with him, and shall designate the device under which the candidate or group or list of candidates of each party shall be printed, in the order in which they shall be arranged on the ballot. In the case of candidates for election as electors of President and Vice President of the United States, the Secretary of State shall certify to the county clerks of the various counties the names of the candidates for President and Vice President of the United States, of the political parties and organizations that have filed certificates of nomination of electors as provided in KRS 118.070 and 118.090. This certification shall be in lieu of certifying the names of the candidates for electors.

(2) The Secretary of State shall not knowingly certify to the county clerk of any county, to be printed on the ballots for any regular election, the name of any candidate of a political party, as defined in KRS 119.010, who has not been nominated in the manner provided in the primary election laws.

§ 5. KRS 118.170 is amended to read as follows:

(1) Except as provided in subsections (4), (5) and (6) of this section, the county clerk of each county shall cause to be printed on one ballot the names of all candidates of his jurisdiction who have been properly nominated for any office specified in the ballot and whose nominations have not been withdrawn as provided in KRS 118.160. All nominations of any party or group of petitioners shall be printed under the title and device designated by them in their certificate or petition, or if none is designated, under some suitable title and device. If the same device for designating candidates is

selected by two parties or groups of petitioners it shall be given to the one that first selected it, and the clerk shall select a suitable device for the other.

(2) Except as provided in subsections (4), (5) and (6) of this section, the ballots shall in general conform, as nearly as practicable, to the following plan:

(a) The lists of the candidates of the various parties shall be printed in parallel columns, in such order as the Secretary of State directs, precedence being given to the party that polled the highest number of votes for the head of the ticket in the last preceding election. The device of each party shall be placed at the head of the list of candidates of the party. The device shall not be enclosed in a square, but immediately under the device shall be placed a circle one inch in diameter. Immediately under it shall be placed the name or title of the party ticket, and immediately under the name or title shall be placed the list of candidates of the party, the name of each candidate having immediately on its right a small square large enough to contain the cross mark by which the voter is required to designate his vote. Underneath the name of each candidate shall be left a blank space large enough to contain a written name. If upon any ticket there is no candidate for a designated office, a blank space equal to the space that would be occupied by the name of a candidate for that office shall be left.

(b) At the top of the ballot and separated from it by a perforated line shall be a stub, containing the consecutive number of the ballot and a space for the name and residence of the voter. No other or secondary stub shall be attached to the ballot.

(c) On the back shall be printed "Official Ballot," the date of the election and a facsimile of the signature of the clerk who has caused the ballot to be printed. There shall also be printed on the back of the ballot a blank line followed by the word "Judge."

(d) The ballots shall be bound, with attached stubs, into books, one for each voting precinct. Upon the covers of the books shall be printed the designation of the precinct for which the ballots have been prepared, and on the inside of one of the covers shall be printed the form prescribed in subsection (2) of KRS 118.410.

(3) Whenever a Constitutional amendment or other public measure is proposed to be voted upon by the people, the substance of the measure shall be clearly indicated upon the ballot, with two spaces upon the right, one for votes favoring the measure to be designated by the word "Yes," and one for votes opposing the measure to be designated by the word "No."

(4) When there are offices or public questions that are to be voted for by only a portion of the voters in any precinct, as in the case of city elections where city wards or election units are not coextensive with the precinct boundaries, the names of the candidates for such offices and such public questions shall be printed on separate ballots, which shall conform as nearly as practicable with the provisions of this section. Separate ballots shall also be printed for public questions when specifically required by the law providing for the submission of the question.

(5) The ballots in elections for members of boards of education shall be prepared as provided in KRS 160.220 and 160.230.

(6) The names of candidates of the several political parties and organizations for electors of President and Vice President of the United States shall not be printed on the ballot, but in lieu thereof, immediately under the party name or device of each party in the column of its candidates on the official ballot, there shall be printed within a bracket the name of the candidate for President and the name of the candidate for Vice President of such party, with a square to the right

of the bracket. The placing of a cross within the square to the right of the bracket enclosing the names of candidates of President and Vice President, or in the circle at the head of the column of such party, shall not be deemed and taken as a direct vote for such candidates for President and Vice President, but shall only be deemed and taken to be a vote for the entire list or set of electors chosen by that political party as provided in KRS 118.090.

§ 6. KRS 118.420 is amended to read as follows:

(1) The State Board of Election Commissioners shall issue certificates of election where the successful candidate was voted for by the state at large or by a district greater than one county.

(2) The State Board of Election Commissioners shall meet, to count and tabulate the votes received by the different candidates as certified to the Secretary of State under KRS 118.400, when the returns are all in, or on the third Monday after the election whether they are in or not, but if all the returns are not made the right to contest an election shall not be impaired. Any two of the members of the board may act in the absence of the third. The board shall make out the certificates of election in the office of the Secretary of State, from the returns made. The board shall make out duplicate certificates of election, in writing, over the signatures of its members. The board shall forward the original certificate, by mail, to the elected candidate, unless he has failed to comply with KRS 123.060, 123.070 or 123.080. The duplicate shall be retained in the office of the board. In the case of the election of a Representative in Congress, an additional certificate shall be made and sent, by mail, to the clerk of the House of Representatives.

(3) The Secretary of State, immediately after the comparison of the returns, shall cause a statement therefrom of the votes given in every county for each candidate to be published in two newspapers.

(4) The certificates of election shall be issued to the candidate receiving the highest number of votes in the territory from which the election is to be made. If two or more persons are found to have received the highest and an equal number of votes for the same office, the election shall be determined by lot in such manner as the board directs, in the presence of not less than three other persons. In the case of elections for electors of President and Vice President of the United States, the board shall issue a certificate of election to each elector of the political party or organization whose candidates for President and Vice President received the highest number of votes and the determinatnion by the board that the candidates of any political party or organization for President and Vice President have received the highest number of votes shall constitute a determination that the electors nominated by that party have been elected.

By Mr. Fitzpatrick.

H. B. 378. An Act relating to finances and revenues of cities of the second class.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 1 of Chapter 169 of the Acts of the 1940 General Assembly is amended to read as follows:

(1) Each city of the second class shall have a board of equalization, to consist of three persons selected by the city legislative body. No person shall be appointed a member of the board of equalization unless he is at the time a housekeeper and owner of real estate in the city, and has been a resident thereof for at least five years next preceding his appointment. The board shall be paid such compensation as

is fixed by ordinance. The members of the board shall take oath faithfully to discharge their duties, and shall elect from among themselves a chairman and a clerk.

(2) The board may cause the custodian of any city records to bring the records before the board for its inspection, and may retain them for defense, if necessary, by giving its receipt to the custodian. The board may also interrogate any city official, who shall, at its request, attend the meeting of the board and respond to all questions. Each member of the board may administer oaths, and the board may compel attendance of witnesses. A majority of a quorum may determine any question before the board.

(3) The board of equalization of each city of the second class shall meet on the first Monday in January of each year, at a suitable place to be provided by the city. After taking office and electing a chairman and a clerk, the board shall notify the auditor that it is ready to receive the assessment books, and the auditor shall then deliver them and take the receipt of the board therefor.

(4) The board shall compare the real estate assessments with the plat books in the auditor's office and see that every parcel of real estate in the city has been assessed. If it finds that any real estate has been omitted, it shall certify that fact to the city solicitor, giving the number of parcels omitted, and the city solicitor shall enforce against the assessor the penalty provided for in § 3177 of Carroll's Statutes. The board shall assess the parcels omitted.

(5) The board shall hear and determine all complaints made against assessments. It shall increase or decrease assessments on like property in order to make all assessments uniform, or to place a true value on the property. It may, by a resolution or order signed by at least two members, increase or decrease all assessments of real estate uniformly by adding or substracting a percentage of the assessments, and

need not give notice of such an increase except by publication in the official newspaper of the city. No increase of an assessment shall be made, except a uniform increase as above provided, without notice to the person whose assessment is to be increased.

(6) Where an assessment has been made against the property of a person who had actual notice to appear and list his property or make statements theerof but failed to do so, the board of equalization shall not decrease, but may increase, the assessment.

(7) The board shall remain in session as long as the business requires, but not for more than four weeks, unless the city legilative body, for cause stated, extends the time. The assessor shall be in constant attendance on the board and shall furnish all information possible.

(8) The board shall not change any assessment by erasure, but shall make all changes and additions in appropriate columns provided for that purpose, and shall use ink of a different color from that used by the assessor.

(9) When the board has completed its work it shall prepare, under the signatures of its members a statement showing the gross assessments of real property and of personal property, and the total of both, and the increase or decrease made by the board in the total assessment. The board shall return the statement to the city auditor, with all assessment books, plats and papers received from him, and shall take his receipt therefor.

(10) The city auditor shall carefully verify the statement of the board of equalization and the assessment books, and if they are correct he shall certify the statement. If he finds a mistake, he shall cause the board of equalization to meet, and together with the board shall ascertain the correct amount. The auditor shall transmit the statement of the board, certified by him as correct, to the city legislative body

at its first meeting in March, as a basis for the annual levy ordinance.

(11) Any taxpayer whose assessment has been raised by the board of equalization otherwise than by the uniform increase of assessments may, within thirty days after the final adjournment of the board, appeal to the quarterly court by filing with the clerk of that court a copy of the action of the board, certified by the clerk of the board. The clerk of the board shall furnish the taxpayer, on demand, with such a certified copy of the action of the board as is necessary for the appeal. Either party may appeal from the quarterly court to the circuit court and thence to the Court of Appeals as in other civil cases. Appeals to the quarterly court or circuit court shall be tried without the intervention of a jury, and in case of appeals by the taxpayer the burden shall be upon the taxpayer to show that his property has been inequitably assessed. The cost of the appeals shall be adjudged against the unsuccessful party.

(12) Any person who refuses to attend or to be sworn when called as a witness by the board of equalization of a city of the second class, or refuses to answer any question, shall be subject to the penalties provided in § 3179 of Carroll's Statutes for a like refusal to the assessor.

§ 2. Section 3182 of Carroll's Kentucky Statutes, 1936 edition, is repealed.

§ 3. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, then, upon the taking effect of the Kentucky Revised Statutes, subsections (1) and (2) of section one of this Act shall be substituted in place of KRS 92.240; subsections (3) to (11), inclusive, of section one of this Act shall be substituted in place of KRS 92.440; subsection (12) of section one of this Act shall be substituted in place of subsection (4) of KRS 92.990; the words and figures "subsection (2) of KRS 92.990" shall be

substituted for "§ 3177 of Carroll's Statutes" in subsection (4) of section one of this Act; the words and figures "subsection (6) of this section" shall be substituted for "§ 3179 of Carroll's Statutes" in subsection (12) of section one of this Act; and this Act shall thereafter be treated as amending the Kentucky Revised Statutes rather than Carroll's Statutes.

§ 4. WHEREAS, there is doubt as to the constitutionality of portions of section one of Chapter 169 of the Acts of 1940, and the provisions of said section will be used and applied in governing proceedings before the board of equalization of cities of the second class before the expiration of ninety days following the closing of the present legislative session, an emergency is declared to exist and this Act shall take effect upon its passage and approval by the Governor.

By Mr. McPherson.

H. B. 379. An Act amending Section 1486b-45 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, relating to registration in cities of the first class.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 1486b-45 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, is amended to read as follows:

(1) At each primary, special or regular election one set of the precinct registers for each precinct containing the typewritten copies of the registration records signed by the voters, after having first been securely locked in the binders or containers provided by the board of registration commissioners, together with a bound comparative signature booklet with ruled lines on each page and with a sufficient number of pages therein so as to permit the voters eligible to cast their

vote at such election to sign their names, shall be turned over to the clerk of election of the respective precincts for use in holding the election. The clerk shall sign receipts for the precinct register and shall, within two days after the election, return the register to the office of the board and secure a receipt therefor.

(2) Before the clerk of election shall issue a ballot to any person at any primary, special or regular election in a city of the first class, it shall be his duty to have the voter sign his name in the comparative signature booklet, unless such voter signed his registration record by making his mark, and the clerk and the other officers of election shall compare the signature of every such person with the signature of that person on the registration record form in the precinct register; any number of such voters may sign on any one page of the booklet, provided that not more than one voter's name shall be signed on each ruled line. The challengers of the respective political parties present shall also have the right to compare the signature at the time the comparison is made by the officers of election. If the comparison of signatures creates a doubt in the minds of two of the election officers as to whether the person applying to vote is the same person as the registrant, no ballot shall be issued to him unless he otherwise satisfactorily establishes his identity as the registrant. The comparative signature booklets shall be furnished and paid for in the same manner as other election paraphernalia. It shall be the duty of each clerk of election to deliver to the board of registration commissioners the signed signature booklet within two days after the election. The board shall retain the comparative signature boolkets and records for such length of time, not less than three years, as it deems necessary or advisable. The board shall permit any citizen, at such times as its office is open to the public and as will not interfere with the proper conduct of the office, to copy any comparative signature record without fee or charge.

(3) If any person applying to vote at an election states that he cannot sign his name, the judges of election shall immediately swear him as to his name and his inability to write, and thereupon the judges and the challengers of the respective political parties shall examine the registration record in the precinct register, and if it is shown by that record that the person of that name signed his name on the registration record, a ballot shall not be issued to the person so applying, unless his inability to sign his name at the date of the election is due to some physical disability arising subsequent to his registration. The election officers shall make and return to the board a record sheet of each person so sworn, showing the disposition made of each case. The record sheets shall be provided as other election paraphernalia.

(4) The clerk in each precinct shall, immediately after the issuing of a ballot to any voter at every primary, special and regular election, indicate at the proper place on the registration record that such person voted at the election.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, then, upon the taking effect of the Kentucky Revised Statutes, subsection (1) of section one of this Act shall be substituted in place of KRS 117.300, subsections (2), (3) and (4) of section one of this Act shall be substituted in place of KRS 117.310, and this Act shall thereafter be treated as amending KRS 117.300 and 117.310 rather than § 1486b-45 of Carroll's Statutes.

By Mr. Tyra.

H. B. 380. An Act relating to pharmcists, pharmacies, and drug stores.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. No licensed pharmacist, licensed drug store or pharmacy shall sell, offer for sale, advertise for sale, give away, or in any other manner dispense or distribute any foods, beverages, confections, tobacco, perfumery, jewelry, wearing apparel, dry goods, pottery, paints, books, magazines, periodicals, newspapers, stationery, hardware, glassware, rubber goods, furniture, gas or electrical appliances, or any other article, commodity, or thing, except medical, hospital, or sick-room accessories and supplies directly related to the practice of pharmacy and the compounding and dispensing of drugs and medicines: *Provided,* That nothing in this Act shall be construed to prevent any licensed pharmacist, drug store or pharmacy doing business at a location not less distant than five miles from the store of a dealer in general merchandise whose principal business is the sale, offer for sale, or advertising for sale of any or all of the articles, commodities, or things above set forth or any other article, commodity, or thing not directly related to the practice of pharmacy, from making application to the Board of Pharmacy for a permit authorizing such pharmacist, drug store or pharmacy, to deal in such articles, commodities, or things. The application shall contain the name or description of each and every article, commodity, or thing to be sold, offered or advertised for sale, or to be otherwise dispensed or distributed by the applicant, and upon payment of a registration fee of three dollars for each and every such article, commodity, or thing named or described in the application, the board may issue the permit provided for herein. Such registration fee shall be paid annually on or before July 1, and shall be in addition to all other registration and license fees required by law of all registered pharmacists and licensed drug stores or pharmacies: *Provided however,* That irrespective of the number of articles, commodities, or things dealt in, the total annual registration fee for each licensed drug store or pharmacy shall not exceed three thousand dollars.

§ 2. Any person who violates any of the provisions of

this Act shall be imprisoned for not more than thirty days or fined not more than fifty dollars, or both; but if the violation is committed after a conviction of such person under this section has become final, such person shall be subject to imprisonment for not more than one year, or a fine of not more than one thousand dollars, or both such imprisonment and fine.

By Mr. Quill.

H. B. 381. An Act relating to salary of county commissioners in counties containing a city of second class.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That the commissioners duly elected by any county containing a city of the second class shall each be paid out of the county levy in lieu of all fees and in full compensation for their services, not more than three thousand ($3,000.00) dollars per annum, payable monthly, same to be fixed by the Fiscal Court.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall stand repealed as of the effective date of the Kentucky Revised Statutes, and the following shall take effect in lieu thereof:

"In counties containing a city of the second class, a salary fixed by the fiscal court at not more than three thousand dollars per annum, payable monthly."

The provision so substituted by this section shall thereafter be treated as an amendment to Paragraph (b) of subsection (1) of KRS 67.110.

By Mr. Henry Ward.

H. B. 382. An Act to authorize individuals, partnerships, associations or corporations organized, operating or doing business under state laws to act as issuing agents for the sale and issue of obligations of the United States upon designation by the Secretary of the Treasury.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Notwithstanding the provisions of any other law, all individuals, partnerships, associations or corporations organized, operating, or doing business under the laws of this state are hereby authorized, during the continuance of any emergency proclaimed by the President of the United States or of a state of war between the United States and a foreign nation or nations, and for such time thereafter as may be expedient or necessary, and upon designation by and qualification with the Secretary of the Treasury of the United States or under his authority, to act as issuing agents for the sale and issue of obligations of the United States.

§ 2. WHEREAS, the immediate sale and issuance of obligations of the United States is imperative for the successful prosecution of the war in which the United States is now engaged, an emergency is declared to exist, and this Act shall take effect upon its passage and approval by the Governor.

By Mr. Hilton.

H. B. 383. An Act relating to persons authorized to solemnize marriages.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. So much of § 2103 as authorizes certain persons to solemnize marriage ceremonies, consisting of the introductory clause and the first three grammatical paragraphs, numbered 1, 2 and 3 is amended to read as follows:

Marriage shall be solemnized only by:

(a) Ministers of the gospel or priests of any denomination in regular communion with any religious society;

(b) Judges of the County Court, Judges of the Police Court, Notaries Public and Justices of the Peace; or

(c) A religious society that has no officiating minister or priest and whose usage is to solemnize marriage at the usual place of worship and by consent given in the presence of the society, if either party belongs to the society.

§ 2. Section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of subsection (1) of KRS 402.050, and shall thereafter be treated as an amendment to subsection (1) of KRS 402.050.

By Mr. Love.

H. B. 384. An Act imposing a tax of one cent per gallon on all gasoline sold within the Commonwealth which is exempt from the road tax of five cents per gallon, providing for the collection of such tax and for distributing two-thirds the sum collected to the Fiscal Court in the various counties for road repairs and for retiring county indebtedness, for paying interest on bonds and further providing that one-third of the amount collected should be paid in the State Highway fund.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. There is hereby imposed a tax of one cent per

gallon on all gasoline sold within this state where the present tax of five cents per gallon is not imposed on such sales.

Section 2. The Department of Revenue shall collect such tax in the same manner that the gasoline road tax is now collected, provided for in Chapter 5 in the Acts of the Third Extra-Ordinary Session of the 1936 General Assembly. Two-thirds of this tax shall be equally divided among several counties of the State and paid to the Fiscal Court thereof by the Treasurer of the Commonwealth. The various counties may use a proportionate share of this tax for road and bridge repairs maintenance or for the retirement of county bonds or for the payment of interest on such bonds.

Section 3. One-third of the amount thus collected shall be covered into State Highway fund and used for general highway expenditures.

By Mr. Brooks.

H. B. 385. An Act relating to Workmen's Compensation, especially relating to medical treatment of injured employes.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 4883 of Baldwin's 1938 Kentucky Statutes Service is amended to read as follows:

(1) In addition to all other compensation provided in this chapter, the employer shall be responsible for the cure and relief from the effects of an injury, and shall be liable for such medical, surgical and hospital treatment, including nursing, medical and surgical supplies and appliances, as may reasonably be required at the time of the injury and there-

after during disability, but not exceeding ninety days nor exceeding a total expense to the employer of more than two hundred dollars. The board may, by order made within the ninety day period, extend the period of treatment or extend the limit of expense to not exceeding four hundred dollars. The board, in its discretion, may apportion payments to be made under this section between hospitals and physicians in cases where their aggregate fees and charges would exceed the maximum for which the employer is liable.

(2) The injured employe shall not be required to accept the services, care and treatment of any physician designated by the mployer or the insurance company of the employer, but may select any regularly qualified and licensed physician or surgeon he wishes and the employer shall be liable, not to exceed the amount set out in this section, for such services performed at the request of the injured employe.

§ 2. Section 4885 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

No action shall be brought against any employer subject to this chapter by any person to recover damages for malpractice or improper treatment received by any employe from any physician, hospital or attendant thereof.

§ 3. Section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 342.020, and shall thereafter be treated as an amendment to 342.020 rather than an amendment to § 4883 of Baldwin's Supplement.

§ 4. Section two of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 342.030, and shall thereafter be treated as an amendment to 342.030 rather than an amendment to § 4885 of Carroll's Statutes.

Ordered that said bills be printed and referred

To Committee on Rules.

Mr. Bolling moved that Master Joseph Madison White, age five months, of San Francisco, California, who should be a native Kentuckian but due to the war situation is a native of California and who is a grandson of the Honorable J. M. Mefford be appointed an honorary page of this House.

Said motion was agreed to.

Mr. Henry Ward moved that the House do now adjourn to meet again on tomorrow at eleven o'clock A. M.

Said motion was agreed to.

And then the House adjourned.

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WEDNESDAY, FEBRUARY 25, 1942

The House was called to order by The Honorable Stanley S. Dickson, Speaker.

The House was opened with prayer by the Reverend Father Joseph O'Dwyer of the Roman Catholic Church of Frankfort, Kentucky.

The roll was called and the following members answered to their names, viz.:

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Douglas T. Bolling | Oris Cooper |
| George P. Anderson | H. M. Brock, Jr. | John Henry Cox |
| Henry Arrowood | Gus A. Brooks | Rev. W. W. Crouch |
| Robert E. Barry | Sherman E. Carter | Guthrie F. Crowe |
| W. T. Beard | C. L. Clayton | Pink G. Curd |
| Robert E. Beatty | T. Fowler Combs | Dr. J. A. Duff |

Forest C. Easley
Harry W. Ennis
John D. Fields
T. P. Fitzpatrick
W. W. Freeman
Joseph J. Grace
P. Bert Hall
A. G. Hamilton, Jr.
Fuller Harding
Joe Higgins
E. R. Hilton
Clyde S. Howard
Jerry F. Howell
Chas. O. Humston
W. H. Hunt
Joe B. Jarboe, Jr.
Crow Jarvis
William L. Jones
John S. Juett
W. A. Lamkin
H. W. Linville
A. L. Love
Harry K. Lowman
Hugh D. Lyon
H. McCartney
Norris McPherson
Dr. Wm. C. Mann
Ed. Marcum
C. C. May
J. Milton Mefford
Sam Milam
D. J. Moore
J. Lee Moore
L. D. Moore
C. E. Montgomery
F. E. Morancy
E. R. Morlidge
C. Sid Nabb
Coy Nevitt
Robert Nicholas
H. C. Patterson
Paul Pelfrey
B. W. Porter
Kleber F. Price
James E. Quill
L. Allen Rhoads
Dr. J. J. Rice
Wade H. Riley
Byron H. Royster
Dr. K. N. Salyer
Carl Scheben
Leon J. Shaikun
Faust Y. Simpson
Clyde Smith
Otto Smither
Charles L. Spilman
James D. Stacey
J. Claude Stacy
R. C. Stephenson
Thomas M. Swope
C. W. Taylor
Egbert Taylor
Roy L. Taylor
Rev. H. Tinsley
John L. Trumbo
Erna E. Tyra
C. R. Walden
Harry Walters
H. A. Ward
Henry Ward
H. L. Waterfield
E. Reed Wilson
Stanley S. Dickson, Speaker

Mr. Henry Ward moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Henry Ward moved that when the House recesses today, it recess for two hours.

Said motion was agreed to.

Mr. Henry Ward moved that the Rules of this House be suspended and that the House proceed with the consideration of the Orders of the Day.

Said motion was agreed to.

Thereupon the House took up for consideration from the Calendar, bills of the following titles, viz.:

S. B. 82. An Act relating to powers and duties of Department of Revenue.

S. B. 104. An Act relating to the enforcement of the satisfaction of judgments.

S. B. 109. An Act to authorize the Commissioner of Welfare to parole at any time at his discretion prisoners serving sentences of ten years or less.

S. B. 110. An Act called "State Agency Regulations Filing Act."

S. B. 117. An Act relating to manufacture, transportation and sale of distilled spirits.

S. B. 141. An Act revising and establishing provisions for the sale of real property of infants, etc.

S. B. 167. An Act relating to municipal and county planning and zoning.

S. B. 170. An Act relating to distilled spirits.

H. B. 337. An Act providing for compensation of attorneys appointed to defend poor persons in criminal actions.

H. B. 374. An Act relating to banks and trust companies.

H. B. 378. An Act relating to finances and revenue of cities of the second class.

S. B. 152. An Act relating to pharmacy.

S. B. 105. An Act to amend and reenact section 2220 Carroll's Kentucky Statutes, relating to interest of judgment.

H. B. 349. An Act relating to alcohol control.

H. B. 343. An Act relating to licensing of school buses.

H. B. 346. An Act requiring incorporated cities to file in office of County Clerk a map of such city with all amendments thereto.

H. B. 97. An Act to require corporations doing business under an assumed name to register such name in office of county clerk.

H. B. 382. An Act to authorize individuals, partnerships etc. to act as issuing agents for the sale and issue of obligations of the United States upon designation by the Secretary of Treasury.

H. B. 345. An Act to provide a State bounty for crows.

With Committee amendment thereto.

Ordered that said bills be read the second time.

The Constitutional provision as to the second reading of said bills at length being dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 208. An Act relating to revenue and taxation.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Sec. 1. That section 4281a-12 of Carroll's Kentucky Statutes, 1936 Edition, is amended to read as follows:

All real or personal property within the jurisdiction of the State and any interest therein belonging to inhabitants of the State; all tangible personal property wherever situated belonging to inhabitants of the State not having acquired a situs for purpose of taxation outside of the State; all intangible property of whatsoever nature belonging to persons domiciled in the State; all intangible property of whatsoever nature having acquired a taxable situs in this State and belonging to non-residents hereof; all real property or interest therein within the State and all tangible personal property having acquired a situs in Kentucky and not taxable elsewhere belonging to persons who are not inhabitants of the State, which shall pass by will, or by the laws regulating intestate succession, or by deed, grant, bargain, sale, or gift, and any assignment, waiver, relinquishment, or surrender of any incident of ownership or interest in any insurance or annuity policy, made in contemplation of death, or made or intended to take effect in possession or enjoyment at or after the death of the grantor, donor or assured, absolutely or in trust, to any person or persons or to any body politic or corporate, in trust or otherwise, or by reason whereof any person or body politic or corporate shall become beneficially entitled in possession of expectancy, to any property, or to the income thereof, or to the proceeds of any insurance or annuity policy, shall be and is subject to a tax for the uses of the Commonwealth specifically prescribed in this Act, upon the fair cash value as of the date of the death of the grantor, donor or assignor of such property in excess of the exemptions hereinafter

granted and at the rates hereinafter prescribed. Such tax shall be imposed when any such person or corporation becomes beneficially entitled, in possession or expectancy, to any property or the income thereof, by any such transfer.

Sec. 2. That section 4281a-13 of Carroll's Kentucky Statutes, 1936 Edition, is amended to read as follows:

Every transfer made within three (3) years prior to the death of the grantor, vendor, or donor of a material part of his estate, or in the nature of a final disposition or distribution thereof, or any waiver, relinquishment or assignment of the legal incidents of ownership in or to the proceeds of any life insurance or annuity policy where the death of the insured is necessary to complete the beneficial use, enjoyment or possession of said life insurance or annuity proceeds, and without an adequate valuable consideration, shall be construed prima facie to have been made in contemplation of death within the meaning of this section, except as hereinafter provided. In the event a transfer was made more than three (3) years prior to the death of the decedent it shall be a question of fact to be determined by the proper tribunal whether such transfer was made in contemplation of death.

If at any time a decedent shall have given or otherwise transferred without adequate valuable consideration any property irrevocably held in trust, the disposition of the income or corpus of which is in any way affected by the grantor's death, or if a decedent at any time without adequate valuable consideration shall have made inter vivos a gift or other transfer of an insurance or annuity policy or of insurance or annuity policies, through irrevocable designation of beneficiary or beneficiaries or otherwise, under the terms of a contract such that payment of the proceeds of the policy is in any way affected by the death of the donor, then in either event, or in both, the gift shall be deemed prima facie to have been made in contemplation of death.

Sec. 3. That section 4281a-14 of Carroll's Kentucky Statutes, 1936 Edition, is amended to read as follows:

Whenever any person shall exercise a power of appointment derived from any disposition of property regardless of when made, such appointment when made shall be deemed a transfer taxable under the provisions of this Act in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and had been bequeathed or devised by such donee by will; and whenever any person possessing such a power of appointment so derived shall omit or fail to exercise the same in whole or in part, within the time provided therefor, a transfer taxable under the provisions of this Act shall be deemed to take place to the person or persons receiving such property as a result of such omission or failure to the same extent that such property would have been subject to taxation if it had passed under the will of the donee of such power. Provided that in the case of such power of appointment, the transfer shall be deemed to take place, for the purpose of taxation, at the time of the death of the donor and the assessment be made at that time against the life interest of the donee and the remainder against the corpus and collection thereof shall be made pursuant to section 4281a-49 of Carroll's Kentucky Statutes, 1936 Edition. In the event this provision should operate to provide an exemption for any beneficiary of a donee not authorized by section 4281a-20 of Carroll's Kentucky Statutes, 1936 Edition, then this exemption shall be retrospectively disallowed. It is further provided that the remainder interest passing under the donee's power of appointment, whether exercised or not, shall be added to and made a part of the distributable share of the donee's estate for the purpose of determining the exemption and rates applicable thereto.

Sec. 4. That section 4281a-16 of Carroll's Kentucky Statutes, 1936 Edition, is amended to read as follows:

In the event it shall appear, either from the will of the decedent or from extrinsic evidence that an obligation of a contractual nature exists in favor of any person, payable at or after death of the decedent, said sum so payable shall be treated for the purposes of this Act as a taxable transfer, unless it shall affirmatively appear by competent evidence that a consideration substantially equivalent in value to the amount so due under said contract was paid or furnished by or for the other party thereto during the life of the decedent. It is further provided that the proceeds payable under any life insurance or annuity policy or policies on the death of the assured, whether payable to a designated beneficiary or to the assured or his estate shall be taxable as a part of the legacy or legacies as distributable shares of the beneficiary or beneficiaries, except that the proceeds of a life insurance policy or life insurance policies, payable to a designated beneficiary or beneficiaries other than the assured or his estate, not to exceed ten thousand dollars ($10,000.00) in the aggregate shall be tax free under the terms of this Act, and the tax free portion shall be divided among the beneficiaries in proportion to the proceeds payable to each of the respective beneficiaries.

It is the legislative intent and purpose to subject to inheritance taxation the proceeds of all insurance and annuity policies upon which the decedent has directly or indirectly paid or caused to be paid all or any part of the premiums and where his heirs, devisees, or beneficiaries by the terms of the insurance or annuity contract are to receive the possession in whole or in part of said proceeds, or become entitled to the beneficial use or enjoyment thereof at or after the death of the assured, notwithstanding the said decedent previous to his death has waived, relinquished, assigned, or surrendered all the legal incidents of ownership in said proceeds in favor of and for the benefit of his heirs, devisees, or beneficiaries, unless it shall affimatively appear that a consideration substantially equivalent to the amount of said proceeds was in

good faith paid to the decedent for said waiver, relinquishment, assignment, or surrender by the one who is to be the beneficiary of said insurance or annuity contract. It is considered that the death of the assured is necessary to complete the beneficial use, enjoyment or possession of said proceeds and the contract is in fact testamentary in its effect and said proceeds shall be deemed a part of the estate of the deceased assured for the purpose of inheritance taxation.

Sec. 5. That Section 4281a-17 of Carroll's Kentucky Statutes, 1936 Edition, is amended to read as follows:

The terms of this Act shall apply to any property or interest therein, of which the decedent has made a transfer by trust or otherwise, in contemplation of or intended to take effect in possession or enjoyment at or after death, including a transfer under which the transferor has retained for his life or any period not ending before his death (a) the possession or enjoyment of, or the income from the property; or (b) the actual or contingent power to designate the persons who shall possess the property or the income therefrom, except in the case of a bona fide sale for an adequate and full consideration in money or money's worth. It shall further apply to any property conveyed in trust over which the settler has a power of revocation exercisable by will.

Sec. 6. That Section 4281a-18 of Carroll's Kentucky Statutes, 1936 Edition, is amended to read as follows:

All transfers to educational, religious or other institutions, societies, or associations, whose sole object and purpose are to carry on charitable, educational, or religious work within the State, all transfers for or upon trust for any charitable, educational, or religious purpose in this State and all transfers to cities and towns or public institutions in this State for public purposes, shall be exempt from the tax imposed by this Act. But no such corporation or association shall be entitled to such exemption if any officer, member, shareholder, or employee thereof shall receive or may be

lawfully entitled to receive any pecuniary profit from the operations thereof, except reasonable compensation for services in effecting one or more of such purposes or as proper beneficiaries of its strictly charitable purpose; or if the organization thereof, for any such avowed purpose, be a guise or pretense for directly or indirectly making any other pecuniary profit for such corporation or association, or for any of its members or employees, or if it be not in good faith organized or conducted exclusively for one or more of such purposes.

Provided, however, that all transfers for, or in trust for, educational, religious, or other institutions, societies, or associations whose sole object and purpose are to carry on charitable, educational, or religious work and all transfers for, or in trust for, any city, county, state, or other public agency, if the said charitable, educational, religious, or public activity be in some state other than Kentucky, shall be exempt only if the state in which said charitable, educational, religious, or public activity is situated levies no inheritance or estate tax on legacies for, or in trust for, Kentucky charitable, educational, religious, or public purposes.

Sec. 7. To all persons of Classes B and C, $500 of each inheritable interest shall be free from tax; provided that if the transfer exceeds $1,000 the exemption shall be decreased by subtracting from $500 the amount by which the distributable share exceeds $1,000 so that a distributable share greater than $1,500 shall receive no exemption.

Sec. 8. That Section 4281a-22 of Carroll's Kentucky Statutes, 1936 Edition, is amended to read as follows:

In calculating the value of the distributive shares the following deductions and no others shall be allowed:

(a) Debts of the decedent, except debts secured by property not subject to the tax jurisdiction of Kentucky; and except debts barred by the Statute of Limitations;

(b) Taxes accrued and unpaid, except those on property not subject to the tax jurisdiction of Kentucky:

(c) Death duties paid to foreign countries;

(d) Federal estate taxes—in the proportion which the net estate in Kentucky subject to Federal estate taxes bears to the total net estate everywhere subject to Federal estate taxes; all calculations are subject to approval by the Department of Revnue;

(e) Drainage, street or other special assessments due and unpaid which are a lien on said property;

(f) Funeral, monument, and cemetery lot maintenance expenses actually paid not exceeding in total sixteen hundred dollars ($1,600.00);

(g) Commission of executors and administrators in a reasonable amount but not to exceed five per cent (5%); provided, however, that no commission shall be allowed to an executor or administrator who is sole beneficiary of the estate;

(h) Cost of administration, including reasonable attorney's fees;

(i) A deduction shall be allowed to persons of Class A of subsection (2), of Section 2, for all property transferred by decedent of Class A of subsection (2), of Section 2, to any person of that class; provided, the same property has been transferred within two (2) years to such decedent and a tax paid (property which was the subject of exemption in the first estate is not to be considered as tax paid for purposes of this section) thereon in this State. This deduction shall not exceed the appraised value on which such tax was paid; provided, however, such property previously taxed can be identified as having been received by the decedent from such prior decedent by gift, bequest, devise, or inheritance, or can be identified as having been acquired in exchange for property so received. Provided, further, that this deduction shall not apply in favor of one who is not within Class A with respect to both the first and second decedents.

Sec. 9. That section 4281a-23 of Carroll's Kentucky Statutes, 1936 Edition, is amended to read as follows:

In the case of estates in expectancy which are contingent or defeasible, a tax shall be levied at the rate, which, on the happening of the most probable contingencies or conditions named in the will would be applicable under the provisions of this Act. Monies so collected shall be distributed as are other inheritance tax funds.

If the property so taxed shall ultimately vest in possession in persons taxable at a lower rate, or in a person or a corporation exempt from taxation by this Act, upon application by such beneficiary to the Department of Revenue for refund of any excess tax, which application shall be certified by the judge or acting judge of the probate court of the county in which the probate proceedings were had, the Department of Revenue, after investigation, shall certify to the Department of Finance the amount of such refund. The Department of Finance shall refund such excess payment of tax in the same manner as other refunds are made.

Sec. 10. That section 4281a-28 and 4281a-30 of Carroll's Kentucky Statutes, 1936 Edition, are consolidated into one section and amended to read as follows:

In addition to the inheritance tax hereinbefore imposed, an estate tax is hereby levied on all estates equal to the amount by which the credits for state death taxes allowable under the Federal estate tax law exceeds the tax levied under Sections 1 and 2 of this Act, less the discount allowed under Section 4281a-41, Carroll's Kentucky Statutes, if taken by the taxpayer. Said tax shall be payable at the same time and in the same manner as the inheritance taxes levied by this Act.

In the case of resident decedents and non-resident decedents over part of whose estates Kentucky has tax jurisdiction the estate tax shall be computed as follows: (a) The ratio which that part of the net estate over which Kentucky has jurisdiction for estate tax purposes bears to the total net

estate wherever located shall be ascertained; (b) the total maximum offset for state succession taxes allowed under the provisions of the Federal estate tax laws shall be multiplied by the ascertained ratio to determine the offset allocable to this State; (c) the estate tax levied by this section shall equal the amount, if any, by which the offset allocable to this State shall exceed the inheritance taxes under sections 1 and 2 of this Act, less the discount allowed under Section 4281a-41, Carroll's Kentucky Statutes, if taken by the taxpayer. All administrative provisions of this Act, to the extent that they are applicable, shall be available for the enforcement of this section and section 4281a-31 of Carroll's Kentucky Statutes, 1936 Edition.

Sec. 11. That section 4281a-34 of Carroll's Kentucky Statutes, 1936 Edition, is amended to read as follows:

The clerk of the county court on the first day of each month, without fee, shall send to the Department of Revenue on forms furnished by said Department a list of wills probated and administrators appointed together with the name of the decedent and the inventory value of the estate when such inventory is filed, and on request from the Department of Revenue shall furnish such other information as may be of record in his office concerning any such estate. This report to be filed by the clerk of the county court shall be completed by the personal representative at the time of filing the inventory and appraisment report and will in the county clerk's office. But for any copies of wills or inventories the clerk shall receive his regular fee.

Sec. 12. It is hereby declared to be the legislative policy that Kentucky shall not be a party to interstate double taxation under the terms of the Kentucky inheritance and estate tax laws. Pursuant to this policy, the Commissioner of Revenue is hereby authorized to omit from the property subject to tax under those laws, any intangible personal property of a nonresident decedent (having a domicile in the United States) held in trust by a Kentucky trustee if the

jurisdiction (state, territory or District of Columbia) in which the decedent was domiciled grants similar immunity to residents of Kentucky, but only in the event the personal representative shall present evidence that the tax has been or will be paid to the other jurisdiction. If another state, territory, or the District of Columbia of the United States constitutionally imposes a tax on the transfer of estates or of the distributive shares thereof, but grants immunity from the tax in respect of any intangible property of its resident decedents held in trust by a Kentucky trustee, then the Commissioner of Revenue is hereby authorized to exclude from the property subject to tax under the Kentucky inheritance and estate tax laws, the intangible personal property of a Kentucky resident held in trust in that jurisdiction but only in the event the personal representative shall present evidence that the tax has been or will be paid to the other jurisdiction.

It is expressly provided, however, in view of the uncertainty now prevailing with respect to the correct interpretation of the Constitution of the United States regarding the jurisdiction of the several states, that the provisions of this section shall be inoperative under the second alternative until and unless an agreement, approved as to legality by the Attorney General between the Commissioner of Revenue as agent for Kentucky and the appropriate administrative official of such other state shall have been executed and an original copy thereof filed with the Kentucky Department of Revenue.

This section is intended to apply retroactively to all estates of decedents on or after April 25, 1936, which are subject to Kentucky inheritance tax laws.

Sec. 13. If any article, provision, section, paragraph or phrase hereof, or the application thereof to any person, circumstance, or condition shall be held invalid, such decision shall not affect or impair the remainder of the Act, it being hereby declared the legislative intent that the remainder of

this Act would have been passed by the General Assembly without the invalid section, paragraph, or phrase, or that the General Assembly would have passed this Act without intending the application of it to such person, circumstance, or condition.

Sec. 14. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, then, upon the taking effect of the Kentucky Revised Statutes, sections 1, 2, 3, 4, 5, 6, 8, 9, 10 and 11 of this Act shall be substituted, respectively, in place of KRS 140.010, 140.020(2), 140.040, 140.030, 140.020(1), 140.060, 140.090, 140.110(1), 140,130 and 140.180(1), and this Act shall thereafter be treated as amending said sections of the Kentucky Revised Statutes rather than sections of Carroll's Kentucky Statutes; the number "KRS 140.230" shall be substituted for "section 4281a-49 of Carroll's Kentucky Statutes, 1936 edition" in section 3 of this Act; the number "KRS 140.080" shall be substituted for section 4281a-20 of Carroll's Kentucky Statutes, 1936 edition" in section 3 of this Act; the number "KRS 140.070" shall be substituted for "section 19 (4281a-19 Carroll's Kentucky Statutes, 1936 edition)" in section 8 of this Act; the number "KRS 140.010" shall be substituted for "sections 1 and 2 of this Act" in section 10 of this Act; the number "KRS 140.210" shall be substituted for "section 4281a-41, Carroll's Kentucky Statutes" in section 10 of this Act; and the number "KRS 140.140" shall be substituted for the "section 4281a-31 of Carroll's Kentucky Statutes, 1936 edition, in section 10 of this Act.

Mr. Ray Stephenson offered the following amendments to said bill, viz.:

1. Amend H. B. 208 on page 11 and 12 section 14, lines 12 to 14 by striking out the following words in line 12 and 13 of section 14 on page 11 and line 14 of section 14 on page 12: "the number 'KRS 140.070' shall be substituted for 'Section

19 (4281a-19 Carroll's Kentucky Statutes, 1936 edition)' in section 8 of this Act.''

Amend H. B. 208 on pages 4 and 5 section 4 lines 1 to 39 inclusive by striking out all of section four.

3. Amend H. B. 208 on pages 2 and 3 section 2 lines 1 to 26 inclusive, by striking out all of section two.

4. Amend H. B. 208 on pages 1 and 2 section 1 lines 1 to 30 inclusive by striking out all of section 1.

Said amendments were each and severally agreed to.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | P. Bert Hall | Kleber F. Price |
| Henry Arrowood | A. G. Hamilton, Jr. | James E. Quill |
| William F. Ball | E. R. Hilton | L. Allen Rhoads |
| Robert E. Barry | W. H. Hunt | Dr. J. J. Rice |
| H. M. Brock, Jr. | John S. Juett | Carl Scheben |
| Gus A. Brooks | W. A. Lamkin | Leon J. Shaikun |
| C. L. Clayton | H. W. Linville | Faust Y. Simpson |
| T. Fowler Combs | Harry K. Lowman | Charles L. Spilman |
| M. A. Cornett | Hugh D. Lyon | J. Claude Stacy |
| Rev. W. W. Crouch | H. McCartney | R. C. Stephenson |
| Pink G. Curd | Norris McPherson | Roy L. Taylor |
| Forest C. Easley | D. J. Moore | Rev. H. Tinsley |
| John D. Fields | C. E. Montgomery | John L. Trumbo |
| T. P. Fitzpatrick | E. R. Morlidge | Harry Walters |
| W. W. Freeman | C. Sid Nabb | Henry Ward |
| Joseph J. Grace | Robert Nicholas | E. Reed Wilson—48 |

Those who voted in the negative were—

| | | |
|---|---|---|
| W. T. Beard | Crow Jarvis | Wade H. Riley |
| Robert E. Beatty | William L. Jones | Byron H. Royster |
| Douglas T. Bolling | A. L. Love | Dr. K. N. Salyer |
| Sherman E. Carter | Ed. Marcum | Thomas M. Swope |
| Oris Cooper | J. Milton Mefford | C. W. Taylor |
| John Henry Cox | Sam Milam | Egbert Taylor |
| Dr. J. A. Duff | L. D. Moore | Erna E. Tyra |
| Harry W. Ennis | F. E. Morancy | H. A. Ward |
| Fuller Harding | Coy Nevitt | H. L. Waterfield |
| Jerry F. Howell | H. C. Patterson | |
| Joe B. Jarboe, Jr. | B. W. Porter | —31 |

Resolved that the title thereof be as aforesaid.

Mr. Ray Stephenson moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 253. An Act relating to elections, with particular relation to voting machines.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Voting machines may be used in regular, special and primary elections under the terms and conditions set forth in this Act.

§ 2. The fiscal court of any county may purchase or lease, from available funds or from the proceeds of bonds which may be issued for that purpose, voting machines, including extra or reserve machines, for use in regular, special

and primary elections in such precincts of the county as are designated by the fiscal court by an order entered on record. Such machines may be purchased or leased at any time, but no order directing the use of voting machines in any precinct shall be made by the fiscal court less than sixty days prior to the election at which the use is to be made, nor unless the machines are available for use and have been placed in the custody of the county clerk at the time the order is made. The precincts in which voting machines are to be used may be changed from time to time by order of the fiscal court, subject to the same time limit set forth in the preceding sentence.

§ 3. (1) No voting machine shall be acquired for use or used by any county unless the make of the machine has been first approved by the State Board of Election Commissioners. The "make" of a machine, as used in this Act, includes any and all models or types of such makes which embody substantially the same necessary distinguishing characteristics as the model submitted to the board for approval. Any person desiring to submit a make of voting machine for approval shall deliver one of the machines to the board, together with a fee of five hundred dollars and a detailed explanation of the construction and method of operation of the machine and a full statement of its advantages. Within thirty days thereafter the board shall examine the machine to determine whether it complies with the requirements of this Act. If the board finds that the machine does so comply, it shall notify the person who submitted the machine that the make of machine will be approved for use upon his filing a bond, payable to the Commonwealth in a sum with corporate surety approved by the board, conditioned that he will sell or lease, as the case may be, no machine in this state as an approved machine other than a machine of the same make as the one submitted for approval. Upon such bond being filed, the board shall enter an order approving the make of machine, the order being in sufficient detail to amply identify the necessary distinguishing characteristics of the

machine. Thereafter any county may acquire and use machines of any make so approved, from the persons who have filed bonds. The board may approve as many makes of machines as are found to comply with the requirements of this Act. After examining any machine submitted for approval under this subsection, the board shall return it to the person by whom it was submitted. The board may in its discretion provide for the examination of machines desired to be approved in a manner other than through delivery of one of the machines to the board.

(2) If the State Board of Election Commissioners considers it necessary to promulgate any regulations as to the custody and use of any make of machine approved by it, in addition to the regulations prescribed by this Act, in order to insure the secrecy of the ballot, the board may promulgate such regulations. The County clerk of every county that acquires voting machines shall notify the board of the make of machine acquired immediately after the machines have been placed in his custody. The board shall then forward three copies of its regulations applicable to the use of that make of machine, certified by its secretary, by registered mail to the county clerk. The county clerk, upon receipt of such copies, shall without delay deliver one to the sheriff and one to the county board of election commissioners. The county board of election commissioners shall give copies of such regulations, and instructions as to their application, to the precinct election officers, at the same time that instructions are given as to the use of the machines under § 10 of this Act. No officer mentioned in this subsection, after receiving a copy of such regulations, shall violate any provision thereof.

(3) The State Board of Election Commissioners may expend so much of the fees received under subsection (1) of this section as may be necessary in the employment of technical experts to examine and report on machines submitted for approval. Any state agency that has in its employ persons qualified to pass an expert opinion upon the suitability

of voting machines submtited for approval shall make such employees available to the State Board of Election Commissioners upon request, unless to do so would unduly interfere with the performance of the work of such agency.

§ 4. No make of voting machine shall be approved for use unless it is so constructed that:

(1) It will insure secrecy to the voter in the act of voting.

(2) It provides facilities that will permit votes to be cast for any candidate entitled to have his name printed upon the ballots at any regular, special or primary election, and for or against any public question entitled to be placed upon the ballots.

(3) It will, except at primary elections, permit a voter to vote for all the candidates of one party or for one or more candidates of every party having candidates entitled to be voted for, or for one or more independent candidates.

(4) It will permit a voter to vote for as many persons for an office as he is lawfully entitled to vote for, and no more.

(5) It will prevent a voter from voting for the same person, or for or against the same question, more than once.

(6) It will permit a voter to vote for or against any question he may have the right to vote on, but no other.

(7) It may be adjusted for use in primary elections so that a voter may not vote for any person except those seeking nomination as candidates of his party.

(8) It will correctly register and accurately count all votes cast for each person, and for or against each public question.

(9) It can be determined whether the machine has been unlocked and operated after once being locked.

(10) It will show at all times during an election how many persons have voted by a device hereinafter referred to as a public counter.

(11) The counter indicating the number of votes cast for each person and for or against each public question cannot be seen or tampered with without unlocking a covering device that cannot be unlocked by a key that unlocks any other part of the machine. When such counters are so exposed the machine can no longer be placed into condition for operation without the use of a special key, which key shall not have been in the possession of the election officers at the polling places; but if this requirement has the effect of eliminating from consideration any other make of machine such requirement shall not apply.

(12) The operating device and operating mechanism may be locked before the time for opening the polls and after the time for closing the polls.

(13) It is accompanied by a mechanical model illustrating the manner of voting on the machine, suitable for the instruction of voters.

(14) It will permit a voter to vote for all the candidates for presidential electors of any party by one operation.

(15) It will permit a voter to vote, in any regular or special election, for any person desired to be voted for whose name does not appear upon the voting machine.

(16) It bears a number that will distinguish it from any other machine.

(17) The frames in which ballot labels are placed shall be constructed with transparent protective devices, in order that the names thereon cannot be mutilated or altered.

§ 5. When voting machines are acquired by any county, they shall be immediately placed in the custody of the county clerk, and shall remain in his custody at all times except when in use at an election or when in the custody of a court or court officer during contest proceedings. The clerk shall see that the machines are properly protected and preserved from damage or unnecessary deterioration, and shall not permit any unauthorized person to tamper with the machines.

§ 6. At the same time the county clerks are required by law to cause the ballots for any regular, special or primary election to be printed and bound, the county clerk of each county that has acquired voting machines shall cause to be printed and ready for use, in the precincts that have been designated by the fiscal court as the ones in which voting machines are to be used, ballot labels for each candidate who, and each question which, is entitled to be printed upon the ballots for such election. The ballot labels shall be printed on clear white paper or other material which shall be furnished by the printer. They shall be printed in black ink, in plain, clear type clearly legible to a person with normal vision, and shall be of such size as will fit the ballot frames. The labels shall include the necessary party designations. Wherever a statute requires that a public question or the name of a candidate be printed upon the ballots, it shall be considered to have been complied with, in precincts where voting machines are used, when appropriate ballot labels have been prepared and inserted in the proper ballot frames. Any provision of the statutes requiring the names of candidates to be rearranged or rotated shall not apply to the arrangement of ballot labels upon voting machines.

§ 7. Upon receiving the printed ballot labels, the county clerk shall place them in the ballot frames upon the machines, in such a manner as will most nearly conform to the plan of arrangement of the paper ballots, and as will clearly indicate the party designation or the symbol under which each person to be voted for is a candidate, and as will enable the machine to be operated according to the principles set forth in section 4 of this Act. He shall then see that the counters referred to in subsections (10) and (11) of section 4 are set at zero, and shall lock the operating device and mechanism and the devices protecting the counters and ballot labels. He shall then enter in an appropriate book, opposite the number of each precinct in which a machine is to be used, the distinguishing number of the machine to be used in that precinct.

§ 8. (1) Upon completing the preparation of the machines in accordance with the provisions of § 7 of this Act, and not later than three days before the day of the election, the county clerk shall notify the members of the county board of election commissioners that the machines are ready for use. The board shall thereupon convene at the office of the county clerk, not later than two days before the day of the election, and examine the machines to determine whether the requirements of Section 7 have been met. If found in proper order, the members of the county board of election commissioners shall endorse their approval in the book in which the county clerk has entered the numbers of the machines opposite the numbers of the precincts. The clerk shall then deliver all of the keys to the machines to the county board of election commissioners who shall give a receipt for the keys which shall contain identification of such keys. Not later than one hour before the time set for the opening of the polls, the board shall deliver the key to the device covering the registering counters and such other keys as may be necessary for the operation of the machine in registering votes, to the election officers of the precinct in which the machine is being used, who shall give the commission receipt therefor containing identification of such keys. The master key and all other keys shall remain in the possession of the county board of election commissioners.

(2) Where a vacancy in a candidacy occasioned by the death, removal or resignation of a candidate before the election and after the ballot labels have been prepared is filled by the chairman of the state, district or county political organization as provided by law, the chairman shall furnish to the county clerk a sufficient number of printed ballot labels bearing the name of the new candidate to replace those bearing the name of the candidate with respect to which the vacancy has occurred. If such ballot labels are furnished to the clerk before the machines are delivered to the election precincts, the clerk shall cause them to be inserted in the

proper ballot frames. If they are furnished after the machines have been delivered to the election precincts, the county clerk shall cause the ballot labels to be delivered to the clerk of each precinct, with directions as to the insertion in the proper ballot frames.

(3) Any candidate, and one representative of each political party having condidates, to be voted for at the election, may be present when the examination of the machines is made by the county board of election commissioners.

§ 9. The county clerk shall cause to be printed and bound, for use in each precinct in which voting machines are to be used, books containing the same blanks that are contained in the ballot stub books. Such books, together with a blank envelope, sealing wax and election seal, shall be delivered to the precincts at the same time as the other election supplies, and the election officers shall use and return them in the same manner that ballot stub books are used and returned. The county clerk shall also, with the county attorney, prepare a sufficient number of instruction cards containing a diagram showing the front of the voting machine as it will appear on the day of the election, and instructions as to the proper method of voting by the use of the machine. The cards shall be examined and approved by the county board of election commissioners at the time the machines are examined and approved. These cards shall be furnished and posted as other instruction cards under the general election laws.

§ 10. Not less than five days before the day of any election in which voting machines are to be used, the county board of election commissioners shall call together the officers of election of each precinct in which voting machines are to be used, and instruct them in the use of the machines. No election officer, upon being notified to appear for instruction, shall fail without just cause so to do. If any officer does so fail to appear, the board shall appoint and instruct some other

qualified person, from the same list from which the defaulting officer was appointed, to act in place of the defaulting officer.

§ 11. At least one hour prior to the opening of the polls, the county clerk shall deliver each machine, with the operating device and mechanism and the device covering the registering counters securely locked, to the clerk of the precinct in which it is to be used, and shall take a receipt therefor indicating the distinguishing number of the machine. The clerk of the precinct shall cause the machine to be arranged in the voting place in such a manner that the front of the machine, on which appear the ballot labels and the operating devices, will not be visible, when being operated, to any person other than the voter. The sheriff of the county, in preparing the voting places, shall so prepare them as to permit the machines to be so arranged, and shall provide a curtain, screen or hood that will enable concealment of the voter and his actions during the act of voting, unless such a curtain, screen or hood is furnished with the machine.

§ 12. Before permitting any person to vote on the day of the election, in a precinct where a voting machine is used, the election officers shall examine the machine to ascertain whether it has been operated since the counters referred to in subsections (10) and (11) of section 4 were set at zero, and to ascertain whether the ballot labels are arranged as specified on the printed instruction cards. If the machine indicates that it has been operated or if the ballot labels are not so arranged, the officers shall not unlock the operating device or mechanism, but shall immediately secure the attendance of one or both of the members of the county board of election commissioners, who shall reset said counters at zero and then relock the device covering the counters, or properly arrange the ballot labels, as the case may be, in the presence of the election officers. If the attendance of such members of the board of election commissioners cannot be obtained before the opening of the polls or within one hour thereafter, the election officers shall notify the county clerk of the foregoing facts

and obtain from the county clerk a reserve voting machine, and thereafter proceed to conduct the election. Any reserve machine so used, shall be prepared for use at the election by the county board of election commissioners and the election officers in such precinct in the same manner as the original machine was prepared for the election by the county clerk. The machine found to have been so operated shall be returned immediately to the custody of the county clerk whose duty it shall be to promptly repair same in order that it may be used as a reserve machine in the election if needed.

§ 13. If, during the conduct of an election, a machine becomes in a state of disrepair so that it cannot be operated in a manner that will comply with the provisions of this Act, the election officers shall lock or seal the machine in such a manner as to prevent further voting thereon and record the numbers shown by the public counter. Then the election officers shall secure from the county clerk a reserve voting machine, which shall be prepared and made ready for use as provided in section 12, and thereupon proceed to conduct the election. When the polls are closed both the original and reserve voting machines shall be examined and the votes thereon registered shall be counted as provided in section 15 and the aggregate number of votes cast on both machines for each candidate and on each question shall be certified as the result of the election in that precinct.

§ 14. (1) Any person desiring and entitled to vote in a precinct where a voting machine is being used shall give his name and residence to the clerk of the precinct, who shall write the same upon a separate page of the blank book in the blanks provided for that purpose, and the voter shall in addition sign any other identification or registration slips required by the registration laws. The voter shall then be instructed by the officers of election, with the aid of the instruction cards and the mechanical model, in the use of the machine.

(2) No voter shall be permitted to receive any assistance in voting unless he makes and signs an oath that, by reason of inability to read English, or by reason of blindness or other physical disability he is unable to vote without assistance. Upon making and filing with the judges such oath, the voter shall retire to the voting machine, with the judges, and one of the judges shall then, in the presence of the other and the voter, operate the machine as the voter directs. No voter shall be assisted under this subsection unless the judges and the sheriff of election are satisfied of the truth of the facts stated in the oath. The voter shall state in his oath the specific physical disability that requires him to receive assistance, and the judges of election shall enter in writing, on a record of assisted voters, the voter's name and the specific physical disability which required him to receive assistance.

(3) No voter shall be permitted to occupy the voting machine more than two minutes if other voters are waiting to use it.

(4) In primary elections, before a voter is permitted to use the voting machine, a judge of the election shall adjust the machine so that the voter will only be able to vote for the persons who are seeking nomination as candidates of the party to which the voter is affiliated.

(5) If the machine is so constructed as to require adjustment after one person has voted before another person may vote, the judges of election shall so adjust it after each person has voted.

(6) The election officers shall constantly maintain a watch in order to prevent any person from voting more than once.

§ 15. (1) At the count of the votes in any such precinct, any candidate and any representatives to witness and check the count of the votes therein, who are hereby authorized to be appointed by the same persons and in the same manner as is provided in § 1482 of Carroll's Kentucky Statutes,

shall be admitted and be permitted to be present and witness the count.

(2) As soon as the polls are closed, and the last voter has voted, the judges shall immediately lock and seal the operating lever or mechanism of the machine so that the voting and counting mechanism will be prevented from operation, and they shall then sign a certificate stating: (1) that the machine has been locked against voting and sealed; (2) the number of voters, as shown on the public counters; (3) the number registered on the protective or accumulative counter or device, if any; and (4) the number or other designation of the voting machine, which certificate shall be returned by the judges of election to the officials authorized by law to receive the same. The judges shall then compare the number of voters, as shown by the counter of the machine, with the number of those who have voted as shown by the protective or accumulative counter or device.

(3) The judges, in the presence of the representatives mentioned in subsection (1), if any, and of all other persons who may be lawfully within the polling place, shall then make visible the registering counters, and, for that purpose, shall unlock and open the doors, or other covering concealing the same, giving full view of all the counter numbers. The judges shall, under the scrutiny of such representatives, and in the order of the offices as their titles are arranged on the machine, read and announce, in distinct tones, the results as shown by the counter numbers for each candidate and for and against each question voted on. The counters shall not be read consecutively along the party rows or columns, but shall always be read along the office columns or rows, completing the canvass for each office or question before proceeding to the next. The vote as registered shall be entered by the judges, in ink, on triplicate return sheets, and also on a general return sheet and statement, all of which, after the canvass is completed, shall be signed by the judges. The total vote cast for each candidate, and for and against each ques-

tion, shall then be computed and entered on the general and triplicate return sheets and statement. There shall also be entered on the general return sheet and statement the number of voters who have voted, as shown by the lists of voters, and the number who have voted on each machine, as shown by the public counters, and also the number registered on the protective or accumulative counter or device on each machine immediately prior to the opening of the polls and immediately after the closing thereof and sealing of the machine. The number or other designation of each machine used shall also be entered thereon. In the case of primary elections, triplicate return sheets shall be prepared for each party. The registering counters of the voting machines shall remain exposed to view until the said returns and all other reports have been fully completed.

(4) The proclamation of the result of the votes cast shall be announced distinctly and audibly by one of the judges of election, who shall read the name of and vote cast for each candidate, and the vote cast for and against each question submitted. During such proclamation ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the machine, and any necessary corrections shall then and there be made by the judges, after which the doors or other cover of the voting machine shall be closed and locked and the return sheet shall be signed by each of the judges of election. If any judge shall decline to sign such return, he shall state his reason therefor in writing, and a copy thereof, signed by him, shall be enclosed with such return. Each of the return sheets shall be enclosed in an envelope, which shall be securely sealed with sealing wax, or other sealing material, and each of the judges shall write his name across the fold of the envelope. One of the triplicate return sheets shall be directed to the County Board of Election Commissioners of the county in which the election is being held, one to the local governing body of each of the two dominant political parties, and the

general return sheet and statement shall be directed and immediately delivered to the clerk of the county court of the county in which said precinct is located. Said envelope shall have indorsed thereon a certificate of the election officers, stating the number of the machine, the precinct where it has been used, the number on the seal, and the number on the protective or accumulative counter or device at the close of the polls.

(5) As soon as possible after the completion of the count, the election officers shall return to the County Board of Election Commissioners the keys to the voting machine received and receipted for by them, and the clerk of the county court in which the precinct is located shall have the voting machine properly boxed or securely covered and removed to a proper and secure place of storage.

§ 16. The general return sheet, triplicate return sheets, and statement, shall be printed to conform with the make of voting machine used. The designating number and letter, if any, on the counter for each candidate shall be printed thereon opposite the candidate's name. Immediately after the vote has been ascertained, the statement thereof shall be posted on the door of the polling place. Thereupon, each of the judges shall take into his possession two of the above mentioned return sheets, sealed up in its envelope as aforesaid, and shall forthwith deliver the said return sheets to the respective officers and persons to whom they are addressed, as aforesaid, and shall take receipts therefor. The judges representing each of the two dominant political parties shall take the envelope addressed to the local governing authority of the party with which said respective judges are affiliated, also, one of the judges shall take and deliver the envelope addressed to the board and the other judge shall take and deliver the envelope addressed to the county clerk.

§ 17. (1) For a period of fifteen days following any primary election, and for a period of thirty days following

any general or special election, the voting machine shall remain locked against voting, except that it may be opened and all the data and figures therein examined, upon the order of any court of competent jurisdiction, or judge thereof, or by direction of any legislative committee authorized and empowered to investigate and report upon contested elections affected by the use of such machine, and such data and such figures shall be examined by such court, judge or committee in the presence of the officer having the custody of such machine. In the event of a contest of election the court in which such contest is pending or the committee before which said contest is being heard may upon motion of any party to said contest issue an order requiring that said voting machines shall remain continuously locked for such further time as may be reasonable or necessary, with due regard for the preparation of said machines for a succeeding primary, general or special election, but in no event shall such order compel that said machines remain locked to a time within thirty days next preceding any such approaching primary, general or special election.

(2) During the period when such machine is required to be kept locked the keys thereto shall remain in the possession of the County Board of Election Commissioners. After such period it shall be the duty of the County Board of Election Commissioners to return such keys to the custody of the county clerk.

§ 18. The provisions of the general election laws as to the number of voters to be contained in each election precinct shall not apply to precincts in which voting machines are designated to be used, and the county court, subject to the other provisions of the general election laws as to changing the boundaries of voting precincts, may change the boundaries of precincts or consolidate precincts so that a precinct in which a voting machine is to be used may contain any number of registered voters not exceeding seven hundred.

§ 19. In the case of any precinct located entirely within the corporate limits of a city, the city legislative body may appropriate funds to enable the fiscal court of the county to purchase a voting machine for use in such precinct, if the county does not provide same, which shall be used in such precinct in city, county and state elections. The fiscal court may not discontinue the use of such machine in such city precinct without the consent of the city legislative body. Any other voting machines acquired by a fiscal court may be used in any city election held in a city within the county upon such terms as may be agreed upon between the fiscal court and the city legislative body.

§ 20. Except as modified by this Act, the general laws applying to regular, special and primary elections shall apply to elections conducted with the use of voting machines, and all provisions of such laws with respect to the custody of ballot boxes shall apply, as far as applicable, to the custody of voting machines.

§ 21. Any person who violates any provision of this Act, or who willfully does any act that will accomplish a result intended to be prevented, or that will prevent from being accomplished a result intended to be permitted, by § 4 of this Act, shall be fined not less than one hundred dollars nor more than one thousand dollars, or imprisoned in the county jail for not more than one year, or both.

Mr. Henry Ward offered the following amendments to said bill, viz.:

1. Amend H. B. 253 on pages 15 and 16, section 19, lines 1 to 10, by striking out all of section 19 and inserting in lieu thereof the following:

"Section 19. Whenever it appears that there is a discrepancy in the returns of any precinct, or it is alleged in a petition of three voters of any precinct, verified by affidavit, that an error, although not apparent on the face of the re-

turns, has been committed therein, the county board of election commissioners shall, at any time prior to the completion of the computation of all of the returns for the election, summon the officers of election of the precinct, and said officers, in the presence of the board, shall make a record of the number of the seal upon the voting machine, and, without unlocking the machine against voting, shall recanvass the vote cast thereon. Before causing such recanvass, the board shall give notice in writing to the county clerk and to each candidate, and to the chairman of the local committee of each party affected by the canvass, and each such candidate may be present in person or by attorney, and each of such parties may send two representatives to be present at such recanvass. If, upon such recanvass, it is found that the original canvass of the returns has been correctly made from the machine, and that the discrepancy still remains unaccounted for, the board, with the assistance of the county clerk, in the presence of the judges of election and the authorized candidates and representatives, shall unlock the voting and counting mechanism of the machine, and shall proceed thoroughly to examine and test the machine to determine and reveal the true cause, if any, of the discrepancy in returns from such machine. Each registering counter shall be reset at zero before it is tested, after which it shall be operated at least one hundred times. After the completion of such examination and test, the county clerk shall then and there prepare a statement, in writing, giving in detail the result of the examination and test, and such statement shall be witnessed by the persons present, and shall be filed with the board. If, upon such recanvass, it appears that the original canvass of the returns by the election officers was incorrect, the returns and all papers being prepared by the board shall be corrected accordingly, except that there shall be no change in the vote of any candidate from that originally certified unless such candidate was actually notified."

2. Amend H. B. 253 on pages 2 and 3, section 3, lines 1 to 56, by striking out all of section 3 and inserting in lieu thereof the following:

"Section 3. The fiscal court of any county may select in its discretion any type and make of voting machine that complies with the specifications and requirements of this Act, and may provide and require additional specifications not in conflict with those required by this Act. The fiscal court may employ engineers and other skilled persons to advise and aid in the selection of the machines and in determining the specifications thereof."

Said amendments were each agreed to.

Mr. Henry Ward moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Douglas T. Bolling | M. A. Cornett |
| George P. Anderson | H. M. Brock, Jr. | John Henry Cox |
| William F. Ball | Gus A. Brooks | Guthrie F. Crowe |
| Robert E. Barry | C. L. Clayton | Pink G. Curd |
| W. T. Beard | T. Fowler Combs | Dr. J. A. Duff |
| Robert E. Beatty | Oris Cooper | Forest C. Easley |

| | | |
|---|---|---|
| Harry W. Ennis | Hugh D. Lyon | Dr. K. N. Salyer |
| T. P. Fitzpatrick | H. McCartney | Carl Scheben |
| Joseph J. Grace | Dr. Wm. C. Mann | Leon J. Shaikun |
| P. Bert Hall | Ed. Marcum | Otto Smither |
| A. G. Hamilton, Jr. | J. Milton Mefford | Charles L. Spilman |
| Fuller Harding | Sam Milam | James D. Stacev |
| Joe Higgins | L. D. Moore | J. Claude Stacy |
| E. R. Hilton | C. E. Montgomery | R. C. Stephenson |
| Clyde S. Howard | E. R. Morlidge | Thomas M. Swope |
| Jerry F. Howell | C. Sid Nabb | C. W. Taylor |
| Chas. O. Humston | Robert Nicholas | Roy L. Taylor |
| W. H. Hunt | H. C. Patterson | Rev. H. Tinsley |
| Joe B. Jarboe, Jr. | B. W. Porter | John L. Trumbo |
| Crow Jarvis | Kleber F. Price | Erna E. Tyra |
| William L. Jones | James E. Quill | Harry Walters |
| John S. Juett | L. Allen Rhoads | Henry Ward |
| W. A. Lamkin | Dr. J. J. Rice | E. Reed Wilson |
| A. L. Love | Wade H. Riley | —71 |

Those who voted in the negative were—

| | | |
|---|---|---|
| Henry Arrowood | Egbert Taylor | H. L. Waterfield |
| Sherman E. Carter | H. A. Ward | —5 |

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Henry Ward moved that the House do now recess.

Said motion was agreed to.

And then the House recessed.

Two hours having expired, the Speaker resumed the Chair and called the House to order.

At the instance of the Committee on Rules, Mr. Henry Ward of the Committee on Rules to which the same had been referred, reported bills and resolutions of the following titles, viz.:

H. Res. 33. Resolution authorizing E. M. Addington to sue the Commonwealth.

H. Res. 50. Resolution authorizing Alex Blackburn to sue the Commonwealth.

H. Res. 60. Resolution authorizing Charlie Cobb to sue the Commonwealth.

H. Res. 61. Resolution authorizing Gus A. Brooks to sue the Commonwealth.

H. Res. 62. Resolution appropriating $69.02 to pay a claim to W. O. Mitchell.

H. Res. 63. Resolution for the benefit of Doyle Hogg, ex-sheriff of Letcher County.

H. Res. 65. Resolution authorizing Mattie Combat and others to sue the Commonwealth.

H. Res. 67. Resolution requiring Commissioner of Highways to make report.

H. Res. 69. Resolution authorizing Ballard Tucker to sue the Commonwealth.

H. Res. 70. Resolution authorizing administrator of Earl Edwards to sue the Commonwealth.

H. Res. 71. Resolution authorizing O. D. Cheatham to sue the Commonwealth.

H. Res. 73. Resolution authorizing Carl Miller to sue the Commonwealth.

H. Res. 76. Resolution for the benefit of Charles White.

H. Res. 77. Resolution authorizing payment of cost and attorney's fees in contest case of Stone versus Hunt.

H. B. 386. An Act to amend Sec. 246 of Constitution relating to compensation for official services.

H. B. 379. An Act relating to registration in cities of the first class.

H. B. 377. An Act relating to elections.

S. B. 163. An Act providing for payment of salaries of Clerks of respective courts.

S. B. 144. An Act relating to prostitution.

S. B. 156. An Act relating to employment and compensation in counties.

S. B. 91. An Act relating to drainage.

S. B. 116. An Act providing for regulation of real estate boards.

S. B. 153. An Act to amend Kentucky Statutes relating to malt beverages.

With the expression of opinion that said bills and resolutions ought to pass.

Ordered that said bills and resolutions be placed on the Calendar.

Mr. Henry Ward moved that a bill entitled:

H. B. 364. An Act relating to public officers and employees.

Be made a Special Order of the Day, for two o'clock p. m.

Said motion was agreed to.

Mr. Swope moved that a bill entitled:

H. B. 348. An Act relating to insurance policies.

Be made a Special Order of the Day for two-thirty o'clock p. m.

Said motion was agreed to.

By order of the Speaker and without objection the session of today was extended indefinitely.

The hour of two o'clock P. M. having arrived, the House took up for consideration the Special Order of the Day, to wit, a bill entitled:

H. B. 364. (For title see Journal of today ante.)

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Subsection (1) of KRS 12.060 is amended to read as follows:

The heads of constitutional and statutory departments, with the approval of the Department of Finance, may establish such subordinate positions as may be necessary and make appointments thereto, within the limitations of their appropriations, and removals therefrom. All appointees to such positions shall be under the supervision, direction and control of the heads of the respective departments and shall perform such duties as the heads of the departments prescribe. The appointments of all employees not otherwise provided for shall be made by the heads of the departments.

§ 2. Necessary travel expenses incurred by state officers and employees in the performance of their duties, either within or without the state, shall be payable out of appropriations to the department or other state agency for which the officer or employee works. The Department of Finance shall

make regulations governing the amount and method of payment of travel expenses and may require that out-of-state travel expenses be approved before they are incurred.

§ 3. KRS 43.060 is amended to read as follows:

The Auditor shall make audits of the accounts of the State Treasurer and the Department of Finance as often as he deems proper, but not less than once each year. He shall ascertatin, by personal examination of the books, accounts and papers in the office of the Department of Finance, the money received by it each month, the sources from which received, and the money paid by it into the State Treasury each month. He shall carefully examine into the books, accounts and papers in the office of the State Treasury, and ascertain the amounts of money paid into and out of the State Treasury each month, and shall ascertain the amount of money on hand by counting it and by personal inquiry of the cashier of each bank or depository in which any state money has been placed or deposited. The Auditor shall compare the vouchers and receipts of the Department of Finance and the State Treasurer, and state the accounts of each, and make a thorough investigation of their offices.

§ 4. Subsection (3) of KRS 64.170 is amended to read as follows:

Upon receipt of a statement the Department of Finance shall draw a warrant upon the State Treasurer for an amount not exceeding seventy-five percent of the amount of the fees or compensation due to or paid to the jailer for services rendered the preceding month. If the amount so paid is not sufficient to pay the salaries and expenses of the office for the month, the deficit may be made up out of the amount due or paid in in any succeeding month during his term of office; but in no event shall the total amount paid exceed seventy-five percent of the amount theretofore paid to the Department of Finance by the jailer plus seventy-five percent of the amount credited to the jailer by the Department of Finance.

If the jailer dies, resigns or is removed from office, any deficit due to him shall be paid to him or his personal representatives, trusees or committee, as the case may be.

§ 5. KRS 57.320 is amended to read as follows:

The following officers and libraries are entitled free of charge to copies of the Kentucky Reports and advance sheets, as they are published: The Governor, each judge of the Court of Appeals, each commissioner of the Court of Appeals, each circuit judge, the judge of each Federal court for Kentucky, the Librarian of the United States Circuit Court of Appeals at Cincinnati and each county law library, one copy; the Law Library of the University of Kentucky, twelve copies; the Law Library of the University of Louisville, three copies; the Library of Congress, seven copies; and the Kentucky Historical Society, two copies.

§ 6. The Clerk of the Court of Appeals, before entering on the duties of his office, shall execute bond to the Commonwealth. The bond shall be executed before and attested by the Chief Justice of the Court of Appeals, who may approve or reject the sureties offered. If the Chief Justice rejects the bond the Clerk shall, at that term of court, execute a satisfactory bond. The bond of the Clerk shall be entered on the records of the Court of Appeals. A copy of the bond when approved shall be transmitted by the Clerk to the office of the Secretary of State where it shall be recorded and preserved.

§ 7. Subsection (2) of KRS 63.040 is amended to read as follows:

The Senate shall appoint a day for hearing the impeachment. The accused shall be summoned by precept, issued by the Clerk of the Senate, to appear on that day. The precept shall be served in person, or a copy left at his residence with some member of his family over the age of sixteen years, together with a copy of the impeachment.

§ 8. Subsection three of KRS 43.030 is amended to read as follows:

Each clerk appointed by the Auditor shall hold his position for the same term as the Auditor, unless sooner removed by him. No one shall be appointed as clerk unless he has been a citizen and resident of this state for at least two years. Each clerk shall take the constitutional oath of office, and may be required by the Auditor to execute bond with surety. The assistants and clerks of the Auditor except field auditors shall reside and keep their office at the seat of government.

Mr. Henry Ward offered the following amendments to said bill, viz.:

1. Amend H. B. 364 on page 1, section 1, line 1 by striking out all of line one and inserting in lieu thereof the following: "Section 1."

2. Amend H. B. 364 on page 1, section 1, line 2 by striking out the words "and statutory".

Said amendments were each agreed to.

Mr. Henry Ward offered the following amendments to said bill, viz.:

3. Amend H. B. 364 on page 1, section 1, lines 2 and 3 by striking out the following: "with the approval of the Department of Finance,".

4. Amend H. B. 364 on page 1, section 1 by adding the following at the end of the section:

"The head of any department may abolish unnecessary offices and positions, transfer officers and employees between positions, and change the duties, titles and compensation of existing offices and positions, subject to any provision of law in relation thereto."

5. Amend H. B. 364 on page 1, section 2, line 1 by striking out the word "necessary" and inserting in lieu thereof the following:

"Subject to the provisions of KRS 45.180, necessary".

Said amendments were each agreed to.

Mr. Waterfield offered the following amendments to said bill, viz.:

6. Amend H. B. 364 on page 2, section 2, line 7 by adding the following:

"Provided that nothing in this Act shall authorize payment for any travel expenses illegally expended prior to the effective date of this Act."

Said amendment was agreed to.

Mr. Henry Ward offered the following amendment to said bill, viz.:

7. Amend H. B. 364 on Section, by adding thereto, beginning at end of line 9, after the word "preserved":

"The Secretary of State and Assistant Secretary of State shall both execute bond with good surety, not to exceed $10,000.00 to be approved by the Governor; said bond premiums to be paid for out of special funds from the State Treasury as are other bonds. The Secretary may require any employee to execute bond.

Said amendment was agreed to.

Mr. Charles Anderson offered the following amendment to said bill, viz.:

Amend H. B. 364 on page 3, section 5, line 9 by inserting after the word "copies" the following:

"the library of Kentucky State College for Negroes, two copies".

Said amendment was agreed to.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Chas. O. Humston | James E. Quill |
| George P. Anderson | W. H. Hunt | L. Allen Rhoads |
| Henry Arrowood | Crow Jarvis | Dr. J. J. Rice |
| William F. Ball | William L. Jones | Carl Scheben |
| W. T. Beard | John S. Juett | Leon J. Shaikun |
| Robert E. Beatty | W. A. Lamkin | Faust Y. Simpson |
| Douglas T. Bolling | H. W. Linville | Clyde Smith |
| Sherman E. Carter | A. L. Love | Otto Smither |
| C. L. Clayton | Hugh D. Lyon | Charles L. Spilman |
| T. Fowler Combs | H. McCartney | James D. Stacey |
| Oris Cooper | Norris McPherson | J. Claude Stacy |
| M. A. Cornett | Dr. Wm. C. Mann | R. C. Stephenson |
| John Henry Cox | Ed. Marcum | Thomas M. Swope |
| Guthrie F. Crowe | C. C. May | C. W. Taylor |
| Pink G. Curd | J. Milton Mefford | Egbert Taylor |
| Dr. J. A. Duff | D. J. Moore | Roy L. Taylor |
| Forest C. Easley | J. Lee Moore | Rev. H. Tinsley |
| Harry W. Ennis | L. D. Moore | John L. Trumbo |
| T. P. Fitzpatrick | C. E. Montgomery | Erna E. Tyra |
| W. W. Freeman | F. E. Morancy | J. Wood Vance |
| Joseph J. Grace | E. R. Morlidge | S. J. Wagner |
| P. Bert Hall | C. Sid Nabb | C. R. Walden |
| Fuller Harding | Coy Nevitt | Harry Walters |
| Joe Higgins | Robert Nicholas | H. A. Ward |
| E. R. Hilton | B. W. Porter | Henry Ward |
| Clyde S. Howard | Kleber F. Price | E. Reed Wilson—78 |

Those who voted in the negative were—

Sam Milam Byron H. Royster H. L. Waterfield
Wade H. Riley —4

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

A message was received from the Senate announcing that they had passed bills and resolutions which originated in that body, entitled:

S. B. 146. An Act relating to elections.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 1465 of Baldwin's 1939 Supplement to Carroll's Kentucky Statutes is amended to read as follows:

(1) At least two days before any special election, and immediately after the day fixed by law for the drawing to determine the order of the names upon the ballot before any primary election, and immediately after the expiration of the period in which petitions or certificates of nomination may be filed with the clerk before any regular election, the fiscal court shall cause to be printed, bound and ready for distribution one book of stubs and ballots for each voting precinct in the county, and such separate ballots as are required by law. The fiscal court shall furnish five percent (5%) more ballots for each precinct than there are registered voters in the precinct.

(2) The fiscal court shall have made for each voting precinct in the county one metal stamp at least one inch in diameter which shall be known as the county election seal.

It shall have upon it the word "Election" straight across the center, the name of the county around the circle inside the rim above the word "Election," and the name of the precinct for which it is made around the circle inside the rim below the word "Election." The fiscal court shall also have made for each precinct one stick of best sealing wax, and one adjustable linen envelope sufficiently large to hold all the material that is required to be returned to the clerk by the election officers, with a gummed seal on the back thereof, and a place on the point of the seal for the county election seal.

(3) The fiscal court shall let the contract for the printing and binding of the stubs and ballots and for the making of the election seal and supplies by sealed bids to the lowest and best bidder. After the stubs and ballots and election supplies have been obtained by the fiscal court, the court shall deliver them to the county court clerk and take his receipt for them.

(4) The county clerk shall deliver the ballot book and ballots, the election seal and wax, and all necessary black ink stencils, sample ballots and cards of instruction to the clerks of the precincts and take their receipts for the same. One of the ink stencils shall be safely placed in the booth, and the other shall be preserved by the clerk, to be used in case any are lost or stolen or destroyed.

(5) Any person who steals or willfully destroys any of the election supplies required to be furnished by the county clerk shall be fined not less than fifty dollars nor more than two hundred dollars, and imprisoned in the county jail for not less than one month nor more than six months.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, then, upon the taking effect of the Kentucky Revised Statutes, subsection (1) of section one of this Act shall be substituted in place of KRS 118.190, subsections (2), (3) and (4) of section one of this Act shall be substituted in place of KRS 118.210, and subsection (5) of section one of this Act shall be substituted in

place of KRS 124.100, and this Act shall thereafter be treated as amending the Kentucky Revised Statutes rather than Carroll's Statutes.

S. B. 47. An Act relating to the State Board of Education.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 4377-8 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

A majority of the board shall constitute a quorum for the transaction of business. The board shall meet every three months and at such other times as it may be called as provided in this section. Special meetings of the board may be called by the chairman, and upon written request of three members the chairman shall call a special meeting of the board. The chairman shall give notice through the secretary by registered mail to each member of the board at least ten days prior to the time of any meeting, unless all members of the board waive notice in writing. The offices of the board shall be at the seat of government in the Department of Education and shall be provided by the state. Members of the board may receive a per diem of ten dollars for each regular or special meeting attended and actual expenses for attending meetings, and may be reimbursed for other actual and necessary expenditures incurred in the state in the performance of their duties authorized by the board. The per diem and expenses shall be paid out of the appropriation for the State Board of Education. However no member of said Board shall receive more than $100.00 per annum for per diem under the provisions of this act.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Re-

vised Statutes, be substituted in place of KRS 156.060, and shall thereafter be treated as an amendment to KRS 156.060 rather than an amendment to § 4377-8 of Carroll's Statutes.

S. B. 116. An Act providing for the regulation of real estate brokers and real estate salesmen.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. Section 3990e-1 of Baldwin's 1939 Supplement to Carroll's Kentucky Statutes is amended to read as follows:

On and after the effective date of this Act it shall be unlawful for any person, copartnership, association or corporation, to act as a real estate broker or real estate salesman or to advertise or assume to act as such real estate broker or real estate salesman without a license issued by the Kentucky State Real Estate Commission.

No copartnership, association, or corporation shall be granted a license unless every member or officer of such copartnership, association or corporation, who actively participates in the brokerage business of such copartnership, association or corporation shall hold a license as a real estate broker, and unless every employee who acts as a salesman for such copartnership, association or corporation shall hold a license as a real estate salesman.

Section 2. Section 3990e-3 of Baldwin's 1939 Supplement to Carroll's Kentucky Statutes is amended to read as follows:

There is hereby created the State Real Estate Commission. The governor shall appoint three persons, each of whom, immediately prior to the date of his appointment, has been a resident of the State for five years and whose vocation for a period of at least ten years shall have been that of real

estate broker, or a real estate salesman; one member shall be appointed for a term of one year; one member shall be appointed for a term of two years; one member shall be appointed for a term of three years; and until their successors are appointed and qualify, thereafter the terms of the members of said Commission shall be for three years and until their successors are appointed and qualify. Members to fill vacancies shall be appointed for the unexpired terms. The Commission immediately upon qualification of the members appointed in each year, shall organize by selecting from its members a chairman, and may do all things necessary and convenient for the carrying into effect the provisions of this Act and may from time to time promulgate necessary rules and regulations, but in no event shall the Commission promulgate any rule or regulation which in any wise fixes prices or commissions.

Each member of the Commission shall receive as full compensation for each day actually spent on the work of said Commission the sum of $10.00 per day and his actual and necessary expenses incurred in the performance of duties pertaining to his office.

The Commission shall employ, and at its pleasure discharge, a secretary, and such clerks and assistants as shall be deemed necesary to discharge the duties imposed by the provisions of this Act, and shall outline their duties and fix their compensation subject to the general laws of the State. The Commission shall obtain such office space, furniture, stationery, fuel, light, and other proper conveniences as shall be reasonably necessary for carrying out the provisions of this Act.

The Commission shall adopt a seal with such design as the Commission may prescribe engraved thereon, by which it shall authenticate its proceedings. Copies of all records and papers in the office of the Commission, duly certified and authenticated by the seal of said Commission, shall be received in evidence in all courts equally and with like effect as

the original. All records kept in the office of the Commission under the authority of this Act shall be open to public inspection under such rules and regulations as shall be prescribed by the Commission.

All fees and charges collected by the Commission under the provisions of this Act shall be paid into the general fund in the State Treasury. All expenses incurred by the Commission under the provisions of this Act, including compenations to members, secretaries, clerks, and assitants, shall be paid out of the general fund in the State Treasury upon warrants of the Auditor of Public Accounts and/or Director of Finance as warrants generally are required to be drawn by the Statutes governing such respective offices from time to time, when vouchers therefor are exhibited and approved by the Commission; Provided, that the total expense for every purpose incurred shall not exceed the total fees, charges, fines, and penalties imposed under the provisions of this Act, and paid into the State Treasury.

Section 3. Section 3990e-5 of Baldwin's 1939 Supplement to Carroll's Kentucky Statutes is amended to read as follows:

The Commission shall issue to each licensee a license in such form and size as shall be prescribed by the Commission. This license shall show the name and address of the licensee and in case of a real estate salesman's license, shall show the name of the real estate broker by whom he is employed. Each license shall have imprinted thereon the seal of the Commission, and in addition to the foregoing, shall contain such matter as shall be prescribed by the Commission. The License of each real estate salesman shall be delivered or mailed to the real estate broker by whom such real estate salesman is employed and shall be kept in the custody and control of such broker. It shall be the duty of each real estate broker to conspicuously display his license in his place of business.

The Commission shall prepare and deliver to each licensee a pocket card, which card among other things shall

contain an imprint of the seal of the Commission and shall certify that the person whose name appears thereon is a licensed real estate broker or real estate salesman, as the case may be, and if it is real estate salesman's card it shall contain the name and address of his employer. The matter to be printed on such pocket card, except as above set forth, shall be prescribed by the Commission.

The original fee for each real estate broker's license shall be Ten Dollars ($10.00) and for the annual renewal fee shall be Five Dollars ($5.00). The original fee for each real estate salesman's license shall be Two Dollars ($2.00) and for the annual renewal fee shall be One Dollar ($1.00). Provided that when a copartnership, association or corporation shall have paid an original fee of Ten Dollars ($10.00) or a renewal fee of Five Dollars ($5.00) and shall have designated one of its members or officers as hereinafter provided in this section, the fees payable by any other member or officer actively engaged in the real estate business of such copartnership, association, or corporation shall be Two Dollars ($2.00 for the first registration fee and One Dollar ($1.00) for a renewal fee, for which a salesman's license shall be issued, but any such member or officer shall be entitled to a broker's license upon the payment of the usual fee therefor.

When a real estate broker's license is granted to any copartnership or association, consisting of more than one person, or to any corporation, this shall entitle the copartnership, association, or corporation to designate one of its members or officers, who upon compliance with the terms of this Act shall, without payment of any further fee, upon issuance of said broker's license, be entitled to perform all of the acts of a real estate salesman contemplated by this Act. The person so designated, however, must make application for a salesman's license, which application shall accompany the application of the real estate broker and be filed with the Commission, at the same time. If, in any case the person so designated by a real estate broker shall be refused a license

by the Commission, or in case such persons cease to be connected with such real estate broker, said broker shall have the right to designate another person who shall make application as in the first instance.

Each real estate broker's license which may be granted to an individual shall entitle such individual to perform all of the acts contemplated by this act without any application upon his part and without payment of any fee other than the real estate broker's annual fee.

Every license shall expire on the thirtieth day of June of each year. The Commission shall issue a new license for each ensuing year, in the absence of any reason or condition which might warrant the refusal of the granting of the license, upon receipt of the written request of the applicant and the annual fee therefor, as herein required. The revocation of a broker's license shall automatically suspend every real estate salesman's license granted to any person by virtue of his employment by the broker whose license has been revoked, pending a change of employer and the issuance of a new license. Such new license shall be issued without charge, if granted during the same year in which original license was granted.

No person, copartnership, or corporation engaged in the business of acting in the capacity of a real estate broker or a real estate salesman of this State shall bring or maintain any action in the Courts of this State for the collection of compensation for any services performed as a real estate broker or salesman without alleging and providing that such person, copartnership, or corporation was duly licensed real estate broker or real estate salesman at the time the alleged cause of action arose.

Notice in writing shall be given to the Commission by each licensee of any change of principal business location whereupon the Commission shall issue a new license for the unexpired period without charge. The change of business

location without notification to the Commission shall automatically cancel the license theretofore issued.

When any real estate salesman shall be discharged or shall terminate his employment with the real estate broker by whom he is employed, it shall be the duty of such real estate broker to immediately deliver or mail by registered mail to the Commssiion such real estate salesman's license. The real estate broker shall at the time of mailing such real estate salesman's license to the Commission, address a communication to the last known residence address of such real etate salesman, which communication shall advise such real estate salesman that his license has been delivered or mailed to the Commission. A copy of such communication to the real estate salesman shall accompany the license when mailed or delivered to the Commission. It shall be unlawful for any real estate salesman to perform any of the acts contemplated by this Act either directly or indirectly under authority of said license from and after the date of receipt of the said license from said broker, by the Commission; Provided that another license shall not be issued to such real estate salesman until he shall return his former pocket card to the Commission or shall satisfactorily account to it for the same. Provided, further, that not more than one license shall be issued to any real estate salesman for the same period of time.

Section 4. Section 3990e-7 of Baldwin's 1939 Supplement of Carroll's Kentucky Statutes is amended to read as follows:

The Commission shall before denying an application for license or before suspending or revoking any license set the matter down for a hearing and at least twenty days prior to the date set for the hearing it shall notify the applicant or licensee in writing, which said notice shall contain an exact statement of the charges made and the date and place of the hearing. The applicant or licensee in all hearings shall have the opportunity to be heard in person and by counsel

in reference thereto. Such written notice may be served by delivery of same personally to the applicant, or licensee or by mailing same by registered mail to the last known business address of such applicant or licensee. If such applicant or licensee be a salesman the Commission shall also notify the broker employing him or in whose employ he is about to enter by mailing notice by registered mail to the broker's last known business address. The hearing on such charges shall be at such time and place as the Commission shall prescribe.

In the preparation and conduct of hearings the Commission shall have power to require by subpoena the attendance and testimony of witnesses and the production of papers, and any member of the Commission may sign subpoenas, administer oaths and affirmations, examine witnesses and receive evidence, the fees and mileage shall be the same as prescribed by law in judicial procedure in the Courts of this State in civil cases. Any party to any hearing before the Commission shall have the right to the attendance of witnesses in his behalf at such hearing upon making a request thereof to the Commission and designating the person or persons sought to be subpoenaed.

In cases of disobedience to the subpoena any member of the Commission may invoke the aid of any court of competent jurisdiction in requiring the attendance and testimony of witnesses and the production of papers; and such court may issue an order requiring the persons to appear before the Commission and give evidence and to produce papers as the case may be; and any failure to obey such order of the Court may be punished by the Court as contempt thereof.

Testimony may be taken by deposition as in civil cases, and any person may be compelled to appear and depose in the same manner as witnesses may be compelled to appear and testify as hereinbefore provided.

Any person who shall neglect or refuse to attend and testify or to answer any lawful inquiry or to produce docu-

mentary evidence if in his power to do so in obedience to a subpoena or lawful requirement by such Commission or member thereof shall be guilty of a misdemeanor and upon conviction thereof by a Court of competent jurisdiction shall be punished as provided in this Act.

If the Commission shall determine that any applicant is not entitled to receive a license, a license shall not be granted to such applicant, and if the Commission shall determine that any licensee is guilty of a violation of any of the provisions of this Act, the license shall be suspended or revoked. The Commission upon request of the applicant or licensee, shall furnish said applicant or licensee with a definite statement of its findings of facts and its reason or reasons for refusing to grant the license or for suspension of the rights of the licensee, or for the revocation of the license, as the case may be. The findings of fact made by the Commission acting within its powers shall, in the absence of fraud, be conclusive, but any person aggrieved shall have the right of an appeal from the findings of the Commission as provided by this Act.

Any party aggrieved by the action of the Commission in refusing to grant a license or in suspending or revoking a license may, within ten days after the entry of such order or refusal, revocation or suspension, file in the office of the Clerk of the Circuit Court of the County in which the action of the Commission is applicable, an attested copy of the proceedings before the Commission provided he shall first post a bond to secure the costs of the action in such sum as may be approved by the Clerk of the Circuit Court, with good and solvent surety. The Commission shall be a necessary party to all such appeals. The Circuit Court Clerk shall thereupon docket the case as though it were a petition in equity and shall immediately issue a summons for such Commission, and said summons shall be returned in the same manner as are summonses in equity cases. No formal pleadings shall be required in such appeals but the case shall be set down by the Court for as early a date as possible for a

hearing, and after such hearing the Court shall enter a judgment sustaining or setting aside the order of the Commission. Either party may appeal to the Court of Appeals from the judgment of the Circuit Court in the same manner as an appeal can be taken from a judgment in equity cases.

Section 5. Section 3990e-7 of Baldwin's 1939 Supplement to Carroll's Kentucky Statutes is amended to read as follows:

A non-resident of this State may become a real estate broker or a real estate salesman by conforming to all the conditions of this paragraph and this Act.

In its discretion the Commission may recognize in lieu of the statements required to accompany an application for license, the license issued to a non-resident broker or salesman in such other state, upon payment of the license fee and the filing by the applicant with the Commission of a certified copy of applicant's license issued by such other state.

(a) Provided that such applicant, if a broker shall maintain an active place of business in the State by which he is originally licensed; and

(b) Provided further that every non-resident applicant shall file an irrevocable consent that suits and actions may be commenced against such applicant in the proper court of any county of this State in which a cause of action may arise in which the plaintiff may reside, by the service of any process or pleading authorized by the laws of this State on the Secretary of the Commission, said consent stipulating and agreeing that such service of such process or pleadings on said Secretary shall be taken and held in all Courts to be as valid and binding as if due service had been made upon said applicant in the State of Kentucky. Said instrument containing such consent shall be authenticated by the seal thereof, if a corporation, or by the acknowledged signature of a member or officer thereof, if otherwise. All such applications, except from individuals, shall be accompanied by the

duly certified copy of the resolution of the proper officers or managing board, authorizing the proper officers to execute the same. In case any process or pleadings mentioned in the case are served upon the Secretary of the Commission, it shall be by duplicate copies, one of which shall be filed in the office of the Commission and the other immediately forwarded by registered mail to the main office of the applicant against which said process or pleadings are directed.

(c) Provided further, however, that every non-resident of this State shall file a bond in form and content the same as is required of applicants under Section 4, in this Act.

Section 6. Section 3990e-9 of Baldwin's 1939 Supplement to Carroll's Kentucky Statutes is amended to read as follows:

The Commission shall at least semi-annually publish a list of the names and addresses of all licensees licensed by it under the provisions of this Act, and of all persons whose license has been suspended or revoked within one year; together with such other information relative to the enforcement of the provisions of this Act as it may deem of interest to the public. One of such lists shall be mailed to the County Clerk of each County of the State, and shall be held by the County Clerk as a public record. Such lists shall also be mailed by the Commission to any person in this State upon request.

Section 7. Section 3990e-12 of Baldwin's 1939 Supplement to Carroll's Kentucky Statutes is amended to read as follows:

Nothing contained in this Act shall affect the power of municipalities to tax, license, and regulate real estate brokers. The requirements hereof shall be in addition to the requirements of any existing or future ordinances of any municipality so taxing, licensing, or regulating real estate brokers.

Section 8. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 324.020, and thereafter be treated as an amendment to KRS 324.020 rather than an amendment to § 3990e-1 of Baldwin's Supplement, and KRS 324.300 shall stand repealed.

Section 9. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, this Act shall be treated as repealing subsection (3) of KRS 324.010, regradless of the date of enactment or taking effect of the Kentucky Revised Statutes.

Section 10. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section two of this Act shall be treated as repealing KRS 324.240 to 324.270 and subsection (2) of KRS 324.280, regardless of the date of enactment or taking effect of the Kentucky Revised Statutes.

Section 11. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section three of this Act shall be treated as repealing KRS 324.070 to 324.130, 324.230 and 324.310 to 324.330, regardless of the date of enactment or taking effect of the Kentucky Revised Statutes.

Section 12. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section four of this Act shall be treated as repealing paragraph (L) of subsection (1) of KRS 324.160, and KRS 324.170 to 324.210, regardless of the date of enactment or taking effect of the Kentucky Revised Statutes.

Section 12A. The provisions of this Act shall not be construed to apply to any person, firm or corporation in making casual sales of real estate for compensation.

Section 13. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, sec-

tion five of this Act shall be treated as repealing KRS 324.050 and 324.140, regardless of the date of enactment or taking effect of the Kentucky Revised Statutes.

Section 14. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section six of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 324.290, and thereafter be treated as an amendment to KRS 324.290 rather than an amendment to § 3990e-9 of Baldwin's Supplement.

Section 15. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section seven of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 324.340, and thereafter be treated as an amendment to KRS 324.340 rather than an amendment to § 3990e-12 of Baldwin's Supplement.

S. B. 153. An Act to amend Section 2554c-1 of Baldwin's 1938 Kentucky Statutes Service and Section 2554c-17 of Carroll's Kentucky Statutes, 1936 Edition, and providing for a referendum on the question of whether or not the sale of malt beverages containing not more than three and two-tenths percent of alcohol by weight should be permitted in any incorporated city or town of the Commonwealth or in any precinct thereof embraced in or comprising a part of any territory wherein for as much as three years the sale, barter or loan of spirituous, vinous or malt liquors has been prohibited under the Local Option Law.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 2554c-1 of Baldwin's 1938 Kentucky Statutes Service is amended to read as follows:

As used in this Act, the following terms, unless the text otherwise indicates, shall have the following meanings

respectively: (a) "Local Option Territory" or "Territory" means such county, city, town, district or precinct for which a petition shall be filed asking for an election to take the sense of the voters regarding the sale, barter and loan of intoxicating liquors as provided, and such governmental unit where a majority shall have voted in favor of prohibiting the sale, barter or loan of said liquors or the possession or transportation thereof. (b) "Spirituous, vinous or malt liquors" means respectively, intoxicating liquor. "Intoxicating Liquor" means alcoholic brandy, whiskey, rum, gin, beer, ale, porter and wine and in addition thereto any spirituous, vinous, malt or fermented liquors, liquids and compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing more than one percentum of alcohol by volume, which are fit for use for beverage purposes. (c) The word "person" includes singular and plural number, and shall mean and include a natural person, association, co-partnership or corporation. (d) "Election" means an election to be held for the purpose of taking the sense of the people as to the prohibition or permission of the sale, barter or loan of spirituous, vinous or malt liquors in any territory. (e) "Prohibition" means that the sale, barter or loan of intoxicating liquors have been rendered unlawful under the terms of this Act. (f) "Local Option Law" refers to the provisions of this Act. Provided, however, that the definition of spirituous, vinous or malt liquors and intoxicating liquors as used in this Act shall not apply to malt beverages in any county, city, town, district or precinct legally dry, if there shall be held in the manner hereinafter set out, a referendum in which the sense of the legal voters of such county, city, town, district or precinct may be taken, at which said referendum a majority of the votes cast shall be in favor of the sale in such county, city, town, district or precinct of malt beverages containing not more than three and two-tenths percent of alcohol by weight. In any county, city, town, district or precinct legally dry under the Local Option

Act, a referendum shall be held whenever a petition is filed in the county clerk's office of the county in which the election is to be held and to which such petition there are attached signatures of voters of the local option territory in which a vote is asked, equal in number to twenty-five percent of the total number of votes cast in the last regular election in the territory designated by the petition to be voted in. At the next regular term of the county court following the filing of the petition, a referendum shall be called to be held on the date specified in the petition, which may be any date on which such an election may be held under the Constitution of the Commonwealth. Such referendum shall be held in substantially the same manner as are other elections and there shall be submitted to the voters in the territory where such referendum is held a question in substantially the following form, to wit: "Are you in favor of the Sale of malt Beverages Containing not more than three and two-tenths percent of alcohol by Weight?" In the event a majority of legal votes cast in a referendum held under the provisions of this Act, are in the affirmative, then malt beverages containing not more than three and two-tenths percent of alcohol by weight, shall be held legal in the territory in which said referendum was held. If a majority of the legal votes cast in such referendum election shall be in the negative, then the sale of such malt beverages shall continue to be illegal until the next local option election and referendum, if such be necessary to determine the sense of the legal voters on the question legalizing the sale of malt beverages as provided in this Act. The votes cast in the referendum shall be counted and certified in the same manner as the votes in other elections. The petition calling for the referendum shall be filed not less than twenty-five nor more than sixty days before the day specified for the holding of the referendum, and such referendum shall be advertised for a period of at least two weeks in at least two issues of a newspaper of general circulation printed and published in the county in which said referendum is called, or

if there be no newspapers printed and published therein, by posting handbills in at least five conspicuous places in every precinct in which the referendum is to be held. The advertisement shall describe the time and place for the holding of the referendum and the question to be voted upon, must be stated in full. No referendum shall be held in such legally dry territory, until the termination of the three year period for which a local option election holds, such three years being determined by the date on which such local option election became effective. But a referendum as provided for in this section may be held in any incorporated city or town, or precinct thereof, located within any county, city, town, district or precinct in which the sale, barter or loan of spirituous, vinous or malt liquors has been prohibited for as much as three years, to determine whether the sale of malt beverages containing not more than three and two-tenths percent of alcohol by weight shall be permitted.

§ 2. Section 2554c-17 of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

When an election is held in an entire county and the majority of votes cast at said election are against the sale, barter or loan of intoxicating liquor, then the terms of Division three (3) of this Act shall be applicable to every portion of said county, subject to the referendum as to the sale of malt beverages containing not more than three and two-tenths percent of alcohol by weight, as provided in Section 1 of this Act. If at such election for the entire county the majority of votes are cast in favor of the sale, barter or loan of such liquors, said vote shall not operate to make the terms of Division three (3) of this Act inapplicable in any territorial division of said county where the local option law has been previously adopted, but the status of such territorial division shall remain as if no such election had been held.

§ 3. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of

this Act shall stand repealed as of the effective date of the Kentucky Revised Statutes, and the following shall take effect in lieu thereof:

A dry territory or a city or precinct of a city within a dry territory may, by a referendum as provided in KRS 242.130 to 242.180, allow the sale within that territory, city or precinct of malt beverages containing not more than three and two-tenths percent of alcohol by weight.

No referendum shall be held under KRS 242.130 to 242.180 until the expiration of three years from the date upon which voters of a territory vote to make the territory dry nor shall any city or precinct thereof within a larger dry territory hold such referendum until the expiration of three years from the effective date upon which the territory became dry.

The provision so substituted by this section shall thereafter be treated as an amendment to KRS 242.130 and 242.180 rather than an amendment to § 2554c-1 of Baldwin's Supplement, and KRS 242.010 and 242.140 to 242.170 shall remain in full force and effect and shall not be treated as affected by this Act.

§ 4. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section two of this Act shall stand repealed as of the effective date of the Kentucky Revised Statutes, and the following shall take effect in lieu thereof:

(1) When an election is held in an entire county and the majority of votes cast at the election are for prohibition, KRS 242.210 to 242.430 shall be applicable to every portion of the county, subject to the referendum as to the sale of malt beverages containing not more than three and two-tenths percent of alcohol by weight as provided in KRS 242.130 to 242.180.

(2) If at the election for the entire county the majority of votes cast are against prohibition, the vote shall not make

KRS 242.210 to 242.430 inapplicable in any territorial division of the county where prohibition has been previously adopted, and the status of that territorial division shall remain as if no election had been held.

The provision so substituted by this section shall thereafter be treated as an amendment to KRS 242.210 rather than an amendment to § 2554c-17 of Carroll's Statutes.

S. Res. 43. A Joint Resolution approving and ratifying the expenditure of one hundred and sixty thousand ($160,000.00) dollars by the Department of Highways in partitioning and equipping offices in the new State Office Building and improving and constructing streets, sidewalks and entrances thereto.

Said resolution is as follows, viz.:

WHEREAS, the Commissioner of Highways in preparing quarters for the Department of Highways and in building streets, sidewalks and entrances to the new State Office Building, has expended and will expend during the fiscal years 1940-41 and 1941-42 from highways funds approximately one hundred and sixty thousand ($160,000.00) dollars, and

WHEREAS, the provision was not made in the budget adopted by the General Assembly in 1940 for the allocation of such funds, and

WHEREAS, the General Assembly knows that such expenditures were needed and necessary, now, therefore,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That all expenditures of money and all funds now obligated or to be expended by the Department of Highways during the fiscal years 1940-1941 and 1941-1942 for partitions, equipment, streets and sidewalks, improvements and entrance to said new State Office Building, be and the same is now hereby ratified and approved in a sum not to exceed one hundred and sixty thousand ($160,000.00) dollars.

S. Res. 48. Resolution appropriating the sum of Ten Thousand, Seven Hundred Twenty-seven and 38/100 Dollars ($10,727.38), with interest thereon from October 26, 1932, for the benefit of Honorable Edward B. Dishman, former Treasurer of the Commonwealth of Kentucky, for moneys spent by him in the performance of his official duties as State Treasurer.

Said resolution is as follows, viz.:

WHEREAS, Honorable Edward B. Dishman was Treasurer of the Commonwealth of Kentucky from January, 1924, to January, 1928, and

WHEREAS, due to insufficient appropriations granted to his office by the General Assembly it was necessary for him to expend for salary to the custodian of securities for the Insurance Department, to various assistant treasurers, and other moneys as premiums upon Fidelity bonds, and a further sum which was necessary to efficiently maintain and operate his office, the total sum being Ten Thousand, Seven Hundred Twenty-seven and 38/100 Dollars ($10,727.38), and

WHEREAS, a civil judgment was recovered against him, which required him to pay out of his personal funds the said sum of Ten Thousand Seven Hundred Twenty-seven and 38/100 Dollars ($10,727.38) on the 26th day of October, 1932, and

WHEREAS, the Court of Appeals in passing upon the civil matter said:

"The equity of the case for Dishman addresses itself to the General Assembly, where power is vested to correct the omission to have an appropriation to cover the overdraft on the budget allowance to pay the lawful compensation for service actually rendered to the State."

AND WHEREAS, the said overdraft of the budget occurred through no misuse of funds, and was paid by the Honorable Edward B. Dishman personally,

*Therefore, be it Reesolved by the General Assembly of the Commonwealth of Kentucky:*

1. That there be and there is hereby appropriated out of the General Expenditure Fund of the Commonwealth of Kentucky, the sum of Ten Thousand, Seven Hundred Twenty-seven and 38/100 Dollars ($10,727.38), with interest thereon from October 26, 1932, to reimburse and pay to Edward B. Dishman the moneys expended by him in the discharge of the duties of the office of State Treasurer, while he was Treasurer of the Commonwealth, and which he was compelled to pay personally.

2. That the Department of Finance, and the Director of Finance, is hereby authorized and directed to issue its or his warrant upon the State Treasurer for the sum of Ten Thousand, Seven Hundred Twenty-seven and 38/100 Dollars ($10,727.38), with interest at the legal rate from October 26, 1932, payable to Honorable Edward B. Dishman, to reimburse him for moneys spent by him in the necessary operation of his office as Treasurer of the Commonwealth of Kentucky from January, 1924, to January, 1928.

Ordered that said bills and resolutions be printed and referred

To Committee on Rules.

And that they had passed bills which originated in this House, entitled:

H. B. 57. An Act pertaining to the covenants of county officers; surety bond; etc.

H. B. 130. An Act to amend Sec. 4281g-14 and repeal Sec. 4281g-7 of Carroll's Kentucky Statutes, 1936 Edition.

H. B. 134. An Act providing for the creation and establishment of public road districts.

Ordered that said bills be delivered to the Enrolling Clerk of this House.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 348. An Act relating to insurance policies, contracts, bonds, or other evidences of insurance transactions with respect to which the Commissioner of Highways has the power of approval or the power to award contracts.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

No insurance policy, contract, bond or other evidence of insurance required to be filed with and approved by the Commissioner of Highways, and no insurance policy, contract, bond or other evidence of insurance incident or pertaining to an operation under a contract awarded by the Commissioner of Highways, shall be issued or delivered in this state unless such insurance policy, bond, contract or other evidence of insurance shall be countersigned by a duly licensed resident local agent of Kentucky, and when the premium is paid for any such insurance policy, bond, contract or other evidence of insurance, the full commission for same shall be collected by such countersigning agent and it shall be unlawful for him to divide commission with anyone except a duly licensed resident local agent of this state.

Any insurance company violating any of the provisions of this Act shall upon conviction be fined not less than $1,000.00, nor more than $5,000.00, in the discretion of the jury, and upon such conviction its license to do business in this state shall be cancelled and not renewed for a period of two years thereafter.

Any agent violating any of the provisions of this Act, upon conviction, shall be fined not less than 100.00 nor more

than $500.00, in the discretion of the jury, and upon such conviction said person's license as insurance agent in this state shall be revoked or not renewed for a period of two years thereafter.

Mr. Swope offered the following amendment to said bill, viz.:

Amend H. B. 348 on page 2, by adding after line 22 the following:

"Exceptions. None of the provisions of this Act shall apply to assessment or cooperative associations or companies, mutual companies, reciprocal or inter-insurance exchanges, their attorneys in fact, or their agents, servants or employees or representatives."

Said amendment was agreed to.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length being dispensed with and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Guthrie F. Crowe | E. R. Hilton |
| W. T. Beard | Pink G. Curd | Clyde S. Howard |
| Robert E. Beatty | Dr. J. A. Duff | Jerry F. Howell |
| Douglas T. Bolling | Harry W. Ennis | Chas. O. Humston |
| H. M. Brock, Jr. | John D. Fields | W. H. Hunt |
| Gus A. Brooks | T. P. Fitzpatrick | Crow Jarvis |
| C. L. Clayton | W. W. Freeman | William L. Jones |
| T. Fowler Combs | Joseph J. Grace | John S. Juett |
| M. A. Cornett | A. G. Hamilton, Jr. | H. W. Linville |
| John Henry Cox | Joe Higgins | A. L. Love |

| | | |
|---|---|---|
| Hugh D. Lyon | Paul Pelfrey | J. Claude Stacy |
| H. McCartney | B. W. Porter | R. C. Stephenson |
| Norris McPherson | Kleber F. Price | Thomas M. Swope |
| Dr. Wm. C. Mann | L. Allen Rhoads | C. W. Taylor |
| Ed. Marcum | Dr. J. J. Rice | Egbert Taylor |
| C. C. May | Wade H. Riley | Roy L. Taylor |
| D. J. Moore | Byron H. Royster | Rev. H. Tinsley |
| J. Lee Moore | Dr. K. N. Salyer | J. Wood Vance |
| L. D. Moore | Carl Scheben | S. J. Wagner |
| C. E. Montgomery | Leon J. Shaikun | C. R. Walden |
| F. E. Morancy | Faust Y. Simpson | Harry Walters |
| C. Sid Nabb | Clyde Smith | H. A. Ward |
| Coy Nevitt | Otto Smither | Henry Ward |
| Robert Nicholas | Charles L. Spilman | H. L. Waterfield |
| H. C. Patterson | James D. Stacey | E. Reed Wilson |

—75

Those who voted in the negative were—

Forest C. Easley Joe B. Jarboe, Jr. —2

Resolved that the title thereof be as aforesaid.

Mr. Swope moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 372. An Act to repeal section seventeen hundred sixty-three of Carroll's Kentucky Statutes Baldwin's 1936 Revision and reenact in lieu thereof the following, which related to salaries in the offices of County Clerk, Circuit Court Clerk and Sheriffs in counties having a population of two hundred thousand or over.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That Section seventeen hundred sixty-three of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be repealed and that the following new matter be enacted in lieu thereof.

(1) In counties having a population of two hundred thousand (200,000) or over the salary of the chief deputy sheriff shall be fixed at a reasonable amount not exceeding three thousand dollars ($3,000.00) a year. The salary of one deputy sheriff who shall act as process clerk shall be fixed at a reasonable amount not to exceed twenty-five hundred dollars ($2,500.00) a year and the salary of each of the other deputy sheriffs shall be fixed at a reasonable amount not exceeding two thousand dollars ($2,000.00) a year.

(2) In counties having a population of two hundred thousand (200,000) or over the salary of the chief deputy circuit court clerk shall be fixed at a reasonable amount not exceeding three thousand dollars ($3,000.00) a year, the salary of one deputy circuit court clerk who shall act as cashier shall be fixed at a reasonable amount not exceeding twenty-five hundred dollars ($2,500.00) a year, and the salary of each of the other deputies in the office of the circuit court clerk shall be fixed at a reasonable amount not exceeding two thousand dollars ($2,000.00) a year.

(3) In counties having a population of two hundred thousand (200,000) or over the salaries of the first four deputy county court clerks shall be fixed at a reasonable amount not exceeding three thousand dollars ($3,000.00) a year and the salary of each of the other deputies in the office of the county court clerk shall be fixed at a reasonable amount not exceeding two thousand dollars ($2,000.00) a year.

Section 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, then, upon the

taking effect of the Kentucky Revised Statutes, subsection (2) of KRS 28.300 shall be treated as amended to read as follows:

In counties containing a population of 75,000 or more and up to 200,000, the salary of the chief deputy circuit court clerk shall be fixed at a reasonable amount not exceeding twenty-five hundred ($2,500.00) dollars per annum, and the salaries of the other deputy circuit clerks shall be fixed at a reasonable amount not exceeding two thousand ($2,000.00) dollars per annum. In counties having a population of two hundred thousand (200,000) or over the salary of the chief deputy circuit court clerk shall be fixed at a reasonable amount not exceeding three thousand dollars ($3,000.00) a year, the salary of one deputy circuit court clerk who shall act as cashier shall be fixed at a reasonable amount not exceeding twenty-five hundred ($2,500.00) a year, and the salary of each of the other deputies in the office of the circuit court clerk shall be fixed at a reasonable amount not exceeding two thousand dollars ($2,000.00) a year.

Subsection (3) of KRS 28.300 shall be treated as amended to read as follows:

"In counties containing a population of 75,000 or more and up to 200,000, the salaries of the first four deputy county court clerks shall be fixed at reasonable amounts, which need not bee the same, and none of which shall exceed $2,500 per annum. The salaries of each of the other deputy county clerks in such counties shall be fixed at a reasonable amount not exceeding $2,000 per annum."

Subsection (3) of section one of this Act shall be substituted in place of subsection (4) of KRS 28.300; subsection (3) of KRS 70.030 shall be treated as amended to read as follows:

"In each county containing a population of 75,000 or over, the number of deputies allowed to the sheriff and the compensation allowed to each deputy, shall be fixed by an order entered upon the order book of the circuit court and

county court, and signed by a majority of the judges of said courts. A certified copy of the order, and of any subsequent changes therein, shall, as soon as entered, be forwarded to the Department of Finance. In counties containing a population of 75,000 or over and up to 200,000, the salary of the chief deputy sheriff shall be fixed at a reasonable amount not exceeding $2,500 per annum, and the salary of each other deputy sheriff shall be fixed at a reasonable amount not exceeding $2,000 per annum. In counties having a population of 200,000 or more, the salary of the chief deputy sheriff shall be fixed at a reasonable amount not exceeding $3,000 per annum, the salary of one deputy sheriff, who shall act as process clerk, shall be fixed at a reasonable amount not to exceed $2,500 per annum, and the salary of each of the other deputy sheriffs shall be fixed at a reasonable amount not exceeding $2,000 per annum.''

and this Act shall thereafter be treated as amending the Kentucky Revised Statutes rather than Carroll's Statutes.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | M. A. Cornett | Joseph J. Grace |
| Henry Arrowood | John Henry Cox | Bert Hall |
| William F. Ball | Guthrie F. Crowe | Fuller Harding |
| W. T. Beard | Pink G. Curd | Joe Higgins |
| Robert E. Beatty | Dr. J. A. Duff | E. R. Hilton |
| Gus A. Brooks | Forest C. Easley | Clyde S. Howard |
| Sherman E. Carter | Harry W. Ennis | Chas. O. Humston |
| C. L. Clayton | T. P. Fitzpatrick | W. H. Hunt |
| Oris Cooper | W. W. Freeman | Crow Jarvis |

| | | |
|---|---|---|
| William L. Jones | C. Sid Nabb | R. C. Stephenson |
| W. A. Lamkin | Coy Nevitt | Thomas M. Swope |
| H. W. Linville | Paul Pelfrey | C. W. Taylor |
| A. L. Love | B. W. Porter | Egbert Taylor |
| William Lovett | Kleber F. Price | Rev. H. Tinsley |
| Hugh D. Lyon | Byron H. Royster | John L. Trumbo |
| Norris McPherson | Dr. K. N. Salyer | Erna E. Tyra |
| Dr. Wm. C. Mann | Carl Scheben | J. Wood Vance |
| Ed. Marcum | Leon J. Shaikun | S. J. Wagner |
| C. C. May | Faust Y Simpson | C. R. Walden |
| Sam Milam | Clyde Smith | Harry Walters |
| J. Lee Moore | Otto Smither | H. A. Ward |
| C. E. Montgomery | Charles L. Spilman | Henry Ward |
| F. E. Morancy | James D. Stacey | H. L. Waterfield |
| E. R. Morlidge | J. Claude Stacy | E. Reed Wilson |

—72

There voted in the negative—

Joe B. Jarboe, Jr. —1

Reesolved that the title thereof be as aforesaid.

Mr. Barry moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 330. An Act relating to the taxation of aviation motor fuel.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section one. Tax paid pursuant to the provisions of section 4281g-1 et seq. of Carroll's Kentucky Statutes, 1936 edition, upon liquid fuel designed for use in aircraft motors

and used in the operation of aircraft engaged in the transportation of persons and property in interstate commerce on regularly scheduled flights may be refunded. No tax shall be refunded except that paid upon such fuel used exclusively in such aircraft motors.

Section two. No person shall be entitled to a refund hereunder unless he shall have first filed with the Department of Revenue a bond with approved corporate surety in an amount of one thousand dollars ($1,000) conditioned upon faithful compliance with this Act and upon the payment to the Commonwealth of any refunds to which he was not entitled.

Section three. Applications for refund shall on or before the fifteenth of each month be made to the Department of Revenue on forms and in the manner prescribed by it for the refund of tax paid on aviation motor fuel used during the preceding month. Each application for a refund shall show the number of gallons of aviation motor fuel purchased during the preceding month; the date and quantity of each purchase; the vendor from whom such fuel was purchased, the number of gallons on which refund is claimed; and such other information as the Department of Revenue may require. The application shall be made under oath.

The Department of Revenue shall audit the application and make such other investigation as it deems necessary to determine whether it constitutes a proper claim. When the Department of Revenue is satisfied that a refund is proper, it shall authorize the amount of tax paid to be refunded as other refunds are made and the amount refunded shall be deducted from current gasoline tax receipts.

Section four. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, upon the taking effect of the Kentucky Revised Statutes, the numbers "KRS 138.210 to 138.340" shall be substituted for "4281g-1 et seq." in section one of this Act.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | William L. Jones | Dr. J. J. Rice |
| George P. Anderson | John S. Juett | Wade H. Riley |
| Henry Arrowood | W. A. Lamkin | Byron H. Royster |
| William F. Ball | H. W. Linville | Dr. K. N. Salyer |
| W. T. Beard | A. L. Love | Carl Scheben |
| Robert E. Beatty | William Lovett | Leon J. Shaikun |
| Douglas T. Bolling | Hugh D. Lyon | Faust Y. Simpson |
| H. M. Brock, Jr. | H. McCartney | Clyde Smith |
| Gus A. Brooks | Norris McPherson | Otto Smither |
| C. L. Clayton | Dr. Wm. C. Mann | Charles L. Spilman |
| T. Fowler Combs | Ed. Marcum | James D. Stacey |
| Oris Cooper | C. C. May | J. Claude Stacy |
| M. A. Cornett | J. Milton Mefford | R. C. Stephenson |
| John Henry Cox | D. J. Moore | Thomas M. Swope |
| Guthrie F. Crowe | J. Lee Moore | C. W. Taylor |
| Pink G. Curd | L. D. Moore | Egbert Taylor |
| Dr. J. A. Duff | C. E. Montgomery | Roy L. Taylor |
| Harry W. Ennis | F. E. Morancy | Rev. H. Tinsley |
| T. P. Fitzpatrick | E. R. Morlidge | John L. Trumbo |
| W. W. Freeman | C. Sid Nabb | J. Wood Vance |
| Joseph J. Grace | Coy Nevitt | S. J. Wagner |
| P. Bert Hall | Robert Nicholas | Harry Walters |
| Fuller Harding | H. C. Patterson | H. A. Ward |
| E. R. Hilton | B. W. Porter | Henry Ward |
| Chas. O. Humston | Kleber F. Price | H. L. Waterfield |
| W. H. Hunt | James E. Quill | E. Reed Wilson |
| Crow Jarvis | L. Allen Rhoads | —80 |

Those who voted in the negative were—

Sherman E. Carter Forest C. Easley Jerry F. Howell —3

Resolved that the title thereof be as aforesaid.

Mr. Quill moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Beard of the Committee on Enrollment reported that they had examined and found to be correctly enrolled a resolution and bills of the following titles, viz.:

H. Res. 13. Resolution authorizing Mrs. C. M. Summer, Jr., to sue the Commonwealth.

H. B. 144. An Act to regulate dental hygiene.

H. B. 163. An Act to repeal Kentucky Statutes, relating to licenses of ferries.

H. B. 219. An Act authorizing clerks, sheriffs and jailers to execute bonds.

Thereupon all other business was suspended, said bills and resolution were read at length and compared and found to be correctly enrolled, and thereupon the Speaker, in open session and in the presence of the House affixed his signature thereto.

Ordered that the Enrolling Clerk of this House deliver said bills and resolution to the Senate.

After a time the Enrolling Clerk aforesaid delivered the original and enrolled copies of said bills and resolution duly signed by the President of the Senate into the possession of the Chief Clerk of this House.

Ordered that the Chief Clerk deliver said bills and resolution to the Governor.

After a time the Chief Clerk aforesaid reported that he had discharged that duty.

Mr. Beard of the Committee on Enrollment to which the same had been referred, reported that they had examined and found to be correctly enrolled, resolutions of the following titles, viz.:

H. Res. 16. Resolution authorizing C. N. Hostetler to sue the Commonwealth.

H. Res. 19. Resolution authorizing Harold Gorin to sue the Commonwealth.

H. Res. 35. Resolution authorizing Charles E. Webb to sue the Commonwealth.

H. Res. 36. Resolution authorizing Jeff Bilyeu to sue the Commonwealth.

H. Res. 37. Resolution authorizing Susie Price and others to sue the Commonwealth.

H. Res. 38. Resolution authorizing Marion Crider to sue the Commonwealth.

H. Res. 39. Resolution authorizing Lieutenant Ethon L. Stone to sue the Commonwealth.

Thereupon all other business was suspended, said resolutions were read at length and compared in open session and thereupon the Speaker, in open session and in the presence of the House, affixed his signature thereto.

Ordered that the Enrolling Clerk of this House deliver said resolutions to the Senate.

After a time the Enrolling Clerk aforesaid, delivered the original and enrolled copies of said resolutions, duly signed by the President of the Senate, into the possession of the Chief Clerk of this House.

Ordered that the Chief Clerk deliver said resolutions to the Governor.

After a time the Chief Clerk aforesaid, reported that he had discharged that duty.

Mr. Henry Ward moved that the Rules of this House be suspended and that the House take up the Regular Order of Business.

Said motion was agreed to.

Mr. Love moved that a bill entitled:

H. B. 158. An Act providing for refund of gasoline tax, etc.

Be taken from the hands of the Committee on Rules and advanced to a reading.

Said motion was disagreed to, having failed to receive the necessary majority.

The yeas and nays being required thereon by Messrs. Love and Henry Ward, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Jerry F. Howell | L. Allen Rhoads |
| W. T. Beard | Chas. O. Humston | Wade H. Riley |
| H. M. Brock, Jr. | W. H. Hunt | Byron H. Royster |
| Gus A. Brooks | Joe B. Jarboe, Jr. | Otto Smither |
| Sherman E. Carter | Crow Jarvis | James D. Stacey |
| Oris Cooper | William L. Jones | Thomas M. Swope |
| M. A. Cornett | A. L. Love | C. W. Taylor |
| John Henry Cox | Dr. Wm. C. Mann | Egbert Taylor |
| Pink G. Curd | Ed. Marcum | John L. Trumbo |
| Dr. J. A. Duff | Sam Milam | Erna E. Tyra |
| Forest C. Easley | L. D. Moore | J. Wood Vance |
| John D. Fields | C. Sid Nabb | C. R. Walden |
| A. G. Hamilton, Jr. | Coy Nevitt | H. A. Ward |
| Fuller Harding | H. C. Patterson | H. L. Waterfield |
| Joe Higgins | Paul Pelfrey | |
| Clyde S. Howard | B. W. Porter | —46 |

Those who voted in the negative were—

| | | |
|---|---|---|
| George P. Anderson | H. W. Linville | James E. Quill |
| Henry Arrowood | William Lovett | Dr. J. J. Rice |
| William F. Ball | Harry K. Lowman | Carl Scheben |
| Douglas T. Bolling | Hugh D. Lyon | Leon J. Shaikun |
| C. L. Clayton | H. McCartney | Faust Y. Simpson |
| T. Fowler Combs | Norris McPherson | Clyde Smith |
| Guthrie F. Crowe | C. C. May | J. Claude Stacy |
| T. P. Fitzpatrick | J. Milton Mefford | R. C. Stephenson |
| W. W. Freeman | D. J. Moore | Roy L. Taylor |
| Joseph J. Grace | J. Lee Moore | Rev. H. Tinsley |
| P. Bert Hall | C. E. Montgomery | S. J. Wagner |
| E. R. Hilton | E. R. Morlidge | Henry Ward |
| John S. Juett | Robert Nicholas | E. Reed Wilson |
| W. A. Lamkin | Kleber F. Price | —41 |

Mr. Bolling moved that the House do now adjourn to meet again on tomorrow at eleven o'clock A. M.

Said motion was disagreed to.

Mr. Vance offered the following resolution, viz.:

A Resolution providing for appropriate ceremonies and exercises of the House of Representatives in respect to patriotism and popular support of the war in which the United States is now concurrently engaged.

WHEREAS, civilian morale is a necessary factor in the attainment of ultimate victory of the United States in the war in which it is now engaged, and

WHEREAS, the House of Representatives, as much as the general population, should give its whole-hearted support to the war effort, and

WHEREAS, a display of warm support of the war effort of the United States by the House of Representatives will contribute to civilian morale, *Therefore be it Resolved by the House of Representatives of the Commonwealth of Kentucky:*

1. That the Speaker of the House of Representatives be petitioned to appoint a committee of eight members of the House of Representatives to prepare and present before the House of Representatives a program of music or addresses, or both, or other appropriate ceremonies and exercises, in order to provide a display of ardent support of the war program of the United States and the democratic principles which under-lie our constitutional form of Government. The Committee, in its discretion, shall designate a suitable hour for the program, on some legislative day before the close of the present session. The Speaker of the House shall be ex officio member of the committee.

2. That the Lieutenant Governor, as Presiding Officer of the Senate, be invited to participate in the planning of such a program.

3. That all the members of the General Assembly of Kentucky be invited to be present when the program is given.

Said resolution was adopted.

Mr. Howard moved that a bill entitled:

H. B. 152. An Act relating to corporation franchises, etc.

Be taken from the hands of the Committee on Rules

And advanced to a reading.

Said motion was disagreed to.

The yeas and nays being required thereon by Messrs. Howard and Curd, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| Gus A. Brooks | Dr. J. A. Duff | Jerry F. Howell |
| Sherman E. Carter | John D. Fields | Chas. O. Humston |
| Oris Cooper | A. G. Hamilton, Jr. | W. H. Hunt |
| M. A. Cornett | Fuller Harding | Crow Jarvis |
| Pink G. Curd | Clyde S. Howard | William L. Jones |

| | | |
|---|---|---|
| A. L. Love | Coy Nevitt | J. Wood Vance |
| Dr. Wm. C. Mann | Paul Pelfrey | C. R. Walden |
| C. C. May | Otto Smither | H. A. Ward |
| Sam Milam | Thomas M. Swope | H. L. Waterfield |
| D. J. Moore | C. W. Taylor | |
| L. D. Moore | Erna E. Tyra | —31 |

Those who voted in the negative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Joe B. Jarboe, Jr. | Carl Scheben |
| George P. Anderson | John S. Juett | Leon J. Shaikun |
| Henry Arrowood | H. W. Linville | Faust Y. Simpson |
| W. T. Beard | William Lovett | James D. Stacey |
| Robert E. Beatty | H. McCartney | J. Claude Stacy |
| Douglas T. Bolling | Norris McPherson | R. C. Stephenson |
| H. M. Brock, Jr. | J. Milton Mefford | Egbert Taylor |
| C. L. Clayton | J. Lee Moore | Roy L. Taylor |
| T. Fowler Combs | C. E. Montgomery | Rev. H. Tinsley |
| John Henry Cox | E. R. Morlidge | John L. Trumbo |
| Rev. W. W. Crouch | C. Sid Nabb | S. J. Wagner |
| T. P. Fitzpatrick | Robert Nicholas | Harry Walters |
| W. W. Freeman | Kleber F. Price | Henry Ward |
| Joseph J. Grace | James E. Quill | E. Reed Wilson |
| E. R. Hilton | Dr. J. J. Rice | —44 |

A message was received from the Senate, announcing that they had passed a bill and resolution which originated in that body, entitled:

S. Rees. 51. Resolution for the benefit of officers and employees of the Senate and House.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

Sec. 1. That there is hereby appropriated from the Legislative Session Fund an additional compensation for the following employees and officers of the Senate and House of Representatives, viz.: Assistant Clerk, Enrolling Clerks, Ser-

geant-at-Arms, Doorkeepers, Cloakroom Keepers, Janitors and Pages, to that compensation provided in Chapter 88 of the Acts of the General Assembly of 1936, the sum of $5,894.00.

Sec. 2. That the Chief Clerk of the Senate shall requisition and the Commissioner of Finance shall draw a warrant for the sum of $2,986.00 on the State Treasurer of the Commonwealth of Kentucky in favor of the Chief Clerk of the Senate. Such Chief Clerk shall forthwith distribute to the employees and officers of the Senate such funds on the basis of the number of days that shuch employees and officers served during the regular session of the General Assembly in the year 1942, the rate per day to be computed by said Chief Clerk and the presiding officer of the Senate on a pro rata basis of the amounts authorized to be paid them by Chapter 88 of the Acts of the General Assembly of 1936.

Sec. 3. The Chief Clerk of the House of Representatives shall requisition and the Commissioner of Finance shall draw a warrant, for the sum of $2,908.00, on the State Treasurer of the Commonwealth of Kentucky in favor of the Chief Clerk of the House of Representatives. Such Chief Clerk shall forthwith distribute to the employees and officers of the House of Representatives such funds on the basis of the number of days that such employees and officers served during the regular session of the General Assembly in 1942. The rate per day to be computed by the said Chief Clerk and the presiding officer of the House of Representatives on a pro rata basis of the amounts authorized to be paid them by Chapter 88 of the Acts of the General Assembly of 1936.

All Acts or parts of Acts in conflict herewith to the extent of such conflict are hereby repealed.

Whereas, the General Assembly will within a short time adjourn and the employees and officers will depart for various sections of the State, an emergency is hereby declared to exist, and this Resolution shall be effective from and after its

passage and approval by the Governor of the Commonwealth of Kentucky.

S. B. 161. An Act relating to the powers of administrative departments, agencies, divisions and independent agencies of the Commonwealth of Kentucky; providing for legal services, the method of employment, payment and the rights, powers and duties of attorneys employed under the provisions of this Act, and repealing section five (5) of Chapter 32 of the Acts of the General Assembly of 1908 and all other laws and parts of laws in conflict with the provisions of this Act, to the extent of such conflict.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That:

Section 1. The term "department" as used in this Act shall be construed to mean and to include each and every administrative department, agency, division and independent agency, as said terms and words are defined in the Governmental Re-Organization Act of 1936.

Section 2. When any department deems it necessary to employ an attorney or attorneys to render any legal services for such department, the department with the approval of the Governor shall have the power and the authority to employ and fix the terms of employment and the compensation to be paid to the attorney or attorneys. The compensation and expenses of any attorney or attorneys employed under the provisions of this Act shall be paid out of the appropriations made to such department as other salaries, compensation and expenses are paid. Before the employment of any attorney under the provisions of this Act shall be made or become effective, the Governor shall approve the employment and the terms of employment by Executive Order duly entered upon the Executive Journal in the office of the Secretary of State.

Section 3. Any attorney or attorneys employed pursuant to the provisions of this Act shall have authority to appear as the chief attorney for and to represent the department in the trial and argument of all cases and proceedings in the Kentucky Court of Appeals and in any and all other courts, and before boards, governmental agencies and tribunals in or out of this Commonwealth whenever such department or any officer or employee thereof is a party in interest or the official rights, powers or duties of the department or of any officer or employee thereof are directly or indirectly affected.

Such attorney or attorneys may institute and prosecute all suits, actions and proceedings necessary to cause the payment of all claims, accounts, demands and judgments of the Commonwealth, for which such department is charged by law with the collection or supervision of the collection thereof, and to take all necessary steps by suit, motion, action or otherwise to collect or cause to be collected and paid into the State Treasury all such claims, demands, accounts and judgments. Any attorney or attorneys so employed shall attend to all litigation and legal business within and without the State, required of him or them by the terms of his or their employment; and also any litigation or legal business that any officer or employee of such department may have in connection with or growing out of his official duties or the official duties of the department; and he or they, upon the written request of any executive or ministerial officer of the department, shall give such department or officer his written opinion as to the duties of such officer and shall prepare proper drafts of all instruments of writing and perform such other legal services pertaining to the functions of the department as may be provided by the terms of employment.

Section 4. Section five (5) of Chapter 32 of the Acts of the General Assembly of 1908 and all other laws and parts of

laws in conflict herewith, to the extent of such conflict, hereby are repealed.

Section 5. WHEREAS, the proper and efficient functioning of the departments require adequate and competent legal advice and services which are not now fully and adequately available; and

WHEREAS, under the provision of Section 81 of the Kentucky Constitution, the Governor is charged with the duty and responsibility of the enforcement of the laws, and it is necessary that the powers granted in this Bill be given immediate effect, an emergency hereby is declared to exist and this Act shall become effective immediately upon its passage and approval by the Governor.

Ordered that said bill and resolution be printed and referred

To the Committee on Rules.

And that they had passed bills which originated in this House entitled:

H. B. 98. An Act relating to county patrols and county police forces, etc.

With amendments thereto as proposed and adopted by the Senate.

H. B. 206. An Act relating to education.

With amendments thereto as proposed and adopted by the Senate.

Ordered that said bills be laid on the Clerk's desk.

At the instance of the Committee on Rules, the following bills and resolutions were introduced, viz.:

By Mr. Henry Ward.

H. B. 386. An Act to amend Section 246 of the Constitution of the Commonwealth of Kentucky relating to compensation for official services.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. That Section 246 of the Constitution of Kentucky be and the same hereby is amended by repealing said section in its entirety and enacting in lieu thereof the following.

Section 2. The General Assembly, as soon as practicable after the enactment of this amendment, shall regulate compensation of public officials and employees, including those in office and those elected to office at the time of adoption of this amendment; and provide for penalties and what deduction shall be made for neglect of official duties. Thereafter, the compensation of public officials shall not be increased or decreased during the terms for which they are elected or appointed.

Section 3. This amendment shall be submitted to the voters of the State for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution of Kentucky, and under the provisions of Section 1459 Kentucky Statutes, Baldwin's 1936 Revision and K. S. R. Section.

Section 4. The substance of the amendment to be stated on the ballot shall be as follows: Are you in favor of amending Section 246 of the Constitution to read as follows:

"The General Assembly, as soon as practicable after the enactment of this amendment, shall regulate compensation of public officials and employees, including those in office and those elected to office at the time of adoption of this amendment; and provide for penalties and what deduction shall be made for neglect of official duties. Thereafter, the compensation of public officials shall not be increased or decreased during the terms for which they are elected or appointed."

By Mr. Tyra.

H. B. 387. An Act prescribing selling charges for leaf tobacco.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

1. That the total amount of warehouse charges made by any tobacco warehouse operating in the Commonwealth of Kentucky to the growers or sellers of tobacco for any and all services rendered said sellers or growers of tobacco shall not exceed the following schedule:

For any tobacco sale, crop lot or sale lot, the charges shall be (25c) twenty-five cents per one hundred pounds, as a weighing fee, plus (2½%) two and one-half percent commission on the total amount of money crop sells for.

2. When tobacco is offered for sale and the price or prices offered are refused or rejected by the grower or seller for any reason whatever and is not again sold on that floor, then the warehouse may only charge a weighing fee not to exceed twenty-five (25c) per hundred pounds.

3. All growers or sellers shall be allowed the right to reject and resell any lot of tobacco one time at the schedule set out in Section 1 of this Act.

4. Any person who violates any provision of this Act shall be subject to a fine of not less than fifty dollars ($50.00), nor more than one hundred dollars, ($100.00), for each offense.

By Mr. Brooks.

H. B. 388. An Act relating to Non-resident Auctioneers and Fxing a Penalty.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

1. No person who is a non-resident of this State may sell, offer for sale or conduct a sale by auction within this Commonwealth who has not first filed a statement with the clerk of the county court in the county in which such auction is to be held showing by whom he is employed, the place and the time where such auction shall be conducted.

2. The Clerk with whom such information is filed shall be entitled to a fee of twenty-five ($25.00) dollars for so recording the statement of such non-resident auctioneer. The Clerk shall retain five dollars ($5.00) of this amount for his fee in connection therewith, and twenty ($20.00) dollars shall be placed with the County Treasurer to be expended for County purposes. The payment of the above mentioned fee shall only entitle such non-resident auctioneer to conduct the auction listed, which shall not continue longer than forty-eight (48) hours.

3. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than fifty ($50.00) dollars nor more than two hundred ($200.00) dollars for each such offense.

By Mr. Crowe.

H. B. 389. An Act relating to milk.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

1. DEFINITIONS. Wherever used in this Act, the following terms shall be construed as set out:

(a) The term "person" means any person, firm, corporation or association.

(b) "Producer" shall mean any person (1) who produces milk in conformity with health regulations for any

marketing area and (2) who sells the milk so produced in said marketing area.

(c) "Distributors" as used in the Act, shall mean any person, firm or corporation holding a distributor's permit from the local Health Board if such permit is required and who distributes dairy products at wholesale or retail (1) to hotels, restaurants, stores, or other establishments for consumption on the premises, (2) to stores or other establishments for resale or (3) to consumers.

(d) The term "producer-distributor" means and includes any person owning, or managing, or controlling a dairy herd or herds, who puts only the milk produced therefrom in bottles or other unit containers in which the same is designed to be sold, or cools, pasteurizes, standardizes, or otherwise processes such milk for the purpose of selling or ditributing the same at wholesale or retail, or who sells or distributes such milk at wholesale or retail.

(e) The term "distributing broker" means and includes all persons who, on their own account, accept or receive milk from a distributor or producer-distributor for sale or distribution at wholesale or retail.

(f) The term "retail store" means any establishment where milk is sold directly to the consumer, other than for consumption upon the premises where sold.

(g) "Local Board" as used in this Act shall mean a board regularly constituted and qualified as provided in this Act, and qualified to act.

(h) The term "marketing area" means the area within any one or more municipal corporations, including any unincorporated territory which the board may designate as a marketing area. In designating such marketing areas the Board shall be confined to marketing areas containing cities of first or second class.

(i) "Milk and Dairy Products" as used in this Act shall mean all milk, cream, buttermilk, cottage cheese, flavored milk, raw or pasteurized milk meeting the require-

ments of the state and Local Board of Health and sold by a milk distributor for consumption as such, and all manufactured dairy products.

(j) Sales of milk and dairy products in Interstate Commerce when made in good faith for shipment out of the State of Kentucky shall be excluded from the provisions of this Act.

(k) The term "State Milk Control Board" means the State Agency created by this law to be known as the State Milk Control Board.

2. There is hereby created a State Milk Control Board which shall be under the direction and supervision of the Department of Business Regulations, to consist of six members to be appointed by the Governor, of which two shall represent producers, and shall be appointed from at least five nominees selected by cooperative milk associations doing business in Kentucky; and two shall represent distributors and be appointed from at least five nominees selected by associations of distributors doing business in Kentucky; and two shall represent producer-distributors and be appointed from at least five nominees selected by the Dean of the College of Agriculture of the University of Kentucky. A vacancy in any membership of the State Milk Control Board shall be filled by appointment for the unexpired term by the Governor in the same manner as the last incumbent of the position was appointed. The Governor may remove any member for misfeasance, malfeasance, or non-feasance in office. The members of the State Milk Control Board shall receive as compensation a per diem fee not to exceed ten dollars ($10.00) per day and necessary traveling and hotel expenses. The term of office of each member of the State Milk Control Board shall be four (4) years from the time of his appointment and until his successor is appointed.

The State Milk Control Board shall function only in any marketing area in which a Local Board has been duly constituted according to the provisions of this Act.

3. Two or more distributors purchasing milk in the same market from producers may associate and meet, confer and agree with one or more cooperative agricultural associations organized under the law of this State, or cooperative law of other states, or with any group of producers whether members of such association or not, selling in the same market upon prices to be paid by distributors to producers for milk in such market and upon rules and regulations governing the method of determining the proportion of the product of the entire dairy herd of a producer which shall be accepted and paid for pursuant to such price or prices or establishing other reasonable trade practices affecting the relations between producers and distributors in such market. Such agreement may also contain provision for a committee or committees to carry out or enforce the provisions of the agreement. No such agreement, however, shall be effective unless and until a copy thereof, signed by all persons and parties thereto, shall have been filed with and approved by the board, as provided herein. Whenever such copies shall have been filed with the board, the board shall give notice of the filing of said agreement by mail to all applicants or licensees as milk dealers, distributors or producer-distributors in the market affected thereby, excepting those shown by such document to be parties to such agreement. Such notice shall specify a time not less than ten days after the date thereof and the place at which the objections to any terms and conditions of such agreement will be heard by the board. If after such hearing the board finds that such an agreement has been fairly entered into without fraud and that the terms and conditions thereof are fair, equitable and in the public interest and that the proportion of the normal fluid milk supply of the market covered by such agreement is more than sixty per cent (60%) of the normal fluid milk distributed and consumed in such marketing area and that such agreement is approved by not fewer than ten per cent (10%), in number, and sixty per cent (60%), in amount of

milk handled, by the distributors in the area affected, the board may approve the same and such agreement as to prices, practices, terms and conditions shall become effective and binding as to all producers and licensees in such market until modified or amended by the board.

4. Any local board in any marketing area, constituted and approved by the State Milk Control Board as provided by this act and consisting both of producers and distributors, may adopt for such marketing area uniform schedule of prices, to producers for milk supplied to licensees in such market, provided, however, that in no case shall the price of milk paid the producer be less than one-half of the price paid by the ultimate consumer for standard fluid milk, and adopt rules and regulations governing the method of determining the proportion of the product of the entire dairy herd of a producer which shall be accepted and paid for pursuant to such price or prices, or establishing reasonable trade practices affecting the relation between licensees or producers and between licensees and producers. The action of such local board shall be submitted to the State Milk Control Board.

Upon receipt of any such written recommendations, the State Milk Control Board shall give notice as prescribed in paragraph (1) of this section to all applicants or licensees in the market affected thereby and by publication of suitable notice in a newspaper of general circulation to all producers and afford a hearing, as provided in said paragraph (1). Upon such hearing, the State Milk Control Board may approve such recommendation and thereupon such schedule of prices and rules and regulations as so approved shall become effective and binding as to all producers and licensees in said marketing area.

When any price schedule to producers, rules or regulations as to fair practices are adopted or approved by the State Milk Control Board, pursuant to the provisions of this section, any price to be paid or charged and any rule or regulation mentioned in this section shall apply to all licensees and

producers affected thereby doing business in such marketing area to which the same relates, whether parties to the agreement whereby the same shall have been fixed or adopted, or not

5. The State Milk Control Board shall have the following powers, to wit:

(a) To make a careful study of the conditions of the production, distribution and consumption of milk and dairy products

(b) (1) To establish uniform prices and classifications by which distributors shall pay for milk according to the use and provide for the equalization of the price of such milk so that all producers shall receive the same price per one hundred pounds of milk sold, except that a producer who distributes only his own production shall be exempt from the provisions of Section 5 (b) (1).

(b) (2) Manufactured products as ice cream, butter, condensed, hard cheese, powdered milk or buttermilk (not for fluid consumption), or milk or dairy products used in their manufacture shall come under the price-fixing power of the State Milk Control Board.

(b) (3) The State Milk Control Board may also, in the equalization of producer prices for any marketing area, provide for the payment of reasonable check-offs to the local milk board or a producer cooperative furnishing milk for such marketing area, to be used and expended by or under the direction of the local milk Board in checking the quality, butterfat content and quantity of milk purchased from producers by milk distributors, in providing a market and payment for milk to producers and in increasing the quantity and quality of milk consumed by the public, provided that wherever in any marketing area a producer cooperative is furnishing more than fifty per cent of the milk sold or consumed in such marketing area, the check-off authorized by the members of such cooperative and the purposes for which the same may be used, shall be prima facie evidence of the reasonableness of

such amount and the uses to be made thereof, and the State Milk Control Board or the Local Milk Board if so authorized by the State Milk Control Board may contract with such producer cooperative to conduct and equalize all producer prices and to render like services to and for non-member producers as is being rendered to member producers of such cooperative in said marketing area. Nothing in this act shall be deemed to limit or abridge the right or authority of a producer cooperative to make additional deductions for its corporate purposes in relation to its own members. Where two (2) or more producers associations are operative in the same marketing area, all the rights and powers granted to one association are hereby granted to all other producer associations.

(b) (4) To require the distributors to furnish satisfactory evidence of their responsibility to pay for milk bought, or to give a bond guaranteeing the payment for such milk. To keep such records of operations and in such manner as are necessary for the carrying out of the provisions of this act. And to report the same to the State Milk Control Board or its agents, which records shall be subject to audit by the State Milk Control Board or its agents. To have access at all reasonable hours to enter any place where milk is being produced, processed, stored, bottled or sold. Such power may be exercised by any member of the board or any employee designated for the purpose and any such member or designated employee shall also have power, upon order of the board, to inspect all pertinent and material books, papers, records or documents at any place within the state for the purpose of ascertaining facts to enable the board to administer this act.

(b) (5) To adopt and enforce all rules, regulations or orders necessary to carry out the provisions of this act, including rules and regulations governing the following:—

(a) The establishment of reasonable trade practices affecting the classification of milk sold by producers.

(b) The establishment of reasonable trade practices between producers or distributors, or producers and distributors in any marketing area.

(c) The marketing of milk at wholesale or retail in any marketing area.

(d) Schedules of prices to be paid producers of milk in each of the marketing areas. Provided, however, that in no case shall the price of milk paid the producer be less than one-half of the price paid by the ultimate consumer for standard fluid milk.

(b) (6) To authorize the local Board to assist the State Milk Control Board in the performance of its duties under this act.

(b) (7) Within thirty (30) days after this act takes effect or within such extended time as the State Milk Control Board by general rule may prescribe or before commencing business, each milk distributor, producer-distributor, distributing broker or retail store, as defined in this act, shall apply to the State Milk Control Board for a license to engage in business. Each applicant shall apply for a license for such business in which he intends to engage. Such application shall be in writing in such form as the State Milk Control Board may prescribe.

(b) (8) The State Milk Control Board shall have the power to suspend the license of any distributor for non-compliance with subsection b of Section 5.

Before the State Milk Control Board may suspend the license of any distributor, it shall give to such distributor ten days' written notice, together with a written statement setting out the grounds for such suspension, and if the distributor does not answer such grounds in writing within ten days, the license shall be suspended by the State Milk Control Board, it shall hold a hearing on the grounds and answer, and make such ruling thereon as the facts justify; and any distributor whose license is suspended shall have the right to

appeal to the Circuit Court of the County in which the Local Board is located, and the State Milk Control Board shall certify to such Court the entire record heard by it, providing the cost of making such record be paid by the appealing distributor. The Circuit Court shall decide the case upon the record submitted, and the findings of fact of the State Milk Control Board shall have the same weight as the verdict of a well-instructed jury, and from the judgment of the Circuit Court either party may appeal to the Court of Appeals as in other cases.

A distributor whose license has been suspended may apply for restoration thereof, and it shall be the duty of the State Milk Control Board to grant or refuse such application as the facts may justify.

6. The State Milk Control Board may determine and designate any area of the state as defined in the act as a marketing area for the sale of milk, provided that the producers or distributors, or both, of two-thirds (2/3rds) of the volume of milk distributed in such area desire to have such marketing area so determined and designated.

7. At any time after this act becomes effective the State Milk Control Board shall set up and appoint for any marketing area as herein defined, a Local Board. Such Local Board shall consist of both producers and distributors, each class of members shall be equal in number each to the other class. Producers so appointed may or may not be duly authorized representatives of any one or more cooperative agricultural associations, and distributors may or may not be members of any organization of distributors. The members of any local Board shall serve without compensation. Whenever the duties of such local Board require, they may employ such assistants as may be necessary. Any such local Board acting in conjunction in any marketing area, may submit to the State Milk Control Board recommendations with respect to rules and regulations to be adopted by the State Milk Control Board for the effectuation of the purposes of this act in such

marketing area. The State Milk Control Board may adopt or approve any such rules or regulations which may be designed to accomplish the purposes of this act. Any such local Board may advise with any producer or producers, distributor or distributors, or other person or persons, subject to the provisions this act and the directions of the State Milk Control Board as to the rights and duties of such person or persons under this Act, and may, when directed thereto by the State Milk Control Board, assist the State Milk Control Board in the enforement of this act. The appointment of such local Board shall in no way curtail or abridge the right or duty of the State Milk Control Board, either on complaint or petition, or on its own motion, to proceed in the exercise of any of its general powers under this act.

The appointive members of the Local Boards shall be nominated at a meeting called by the State Milk Control Board within thirty days after request is made, proper notice of which shall be sent to all producers as defined herein supplying the marketing area and to all distributors doing business within the marketing area area, but each meeting shall be held separately, and ten (10) days' notice of the time and place of holding said meeting shall be given in the notice. At such meeting a chairman and secretary shall be elected and the certification of the chairman and secretary of the names of those nominated to the Local Board shall be made to the State Milk Control Board.

The producer and distributor members of the Local Board shall hold their offices for a term of one (1) year or until their successors are nominated and qualified, and each year thereafter the State Milk Control Board shall give the same notice of nomination of members of the Local Board as above provided. The nomination of members of the Local Board shall be held in the same month each year and as nearly as possible on the same day. Vacancies in the Local Board shall be filed by the State Milk Control Board until the next annual nomination. Each local board shall make a

careful study of the conditions concerning the production, distribution and consumption of milk and dairy products within its respective marketing area, and submit to the State Milk Control Board recommendations with respect to rules and regulations to be adopted by such State Milk Control Board for the effectuation of the purposes of this act in such marketing area.

8. All distributors, producer-distributors, distributing brokers and retail stores doing business in the marketing area as defined in this act shall procure and maintain an annual license from the State Milk Control Board and no distributor, producer-distributor, distributing broker or retail store shall operate without one. The annual license fees shall be as follows:

Distributors—$1.00.

Producer-Distributors—$1.00.

Distributing Broker—$1.00.

Retail Store—$.50.

In addition to the annual license paid by each distributor, each distributor shall pay to the State Milk Control Board, one half cent per hundredweight on all milk affected by the provisions of this Act. One half of such amount paid shall be paid by the producers and one half by the distributors in any marketing area as defined in this act. These payments on milk receipts shall be made monthly. The State Milk Control Board at its discretion may waive the foregoing payments on milk receipts for any delivery period or periods if the funds accumulated under this act exceed the cost of administration.

9. PENALTIES. Any person, firm or corporation violating the provisions of this Act or failing to conform to the regulations of the State Milk Control Board shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than Ten ($10.00) Dollars, and not more than One Hundred ($100.00) Dollars for each offense.

10. In order to secure a uniform system of milk control, the State Milk Control Board is hereby vested with power and it shall be its duty to confer and cooperate with the legally constituted authorities of other states and of the United States, including the Secretary of Agriculture of the United States, and for the foregoing purposes the State Milk Control Board shall have power to conduct joint hearings, issue joint or concurrent orders and exercise all its powers under this Act.

By Messrs. Howell, Brooks, Hiram Brock, Harding, Swope, Fields, Royster, Beatty, Jarboe, Patterson, Cooper, Carter, Hunt, Trumbo, Milam and Waterfield.

H. Res. 79. A Joint Resolution authorizing and providing for a thorough and complete investigation of the Division of Purchases, and appropriating money therefor.

Said resolution is as follows, viz.:

WHEREAS, the Governor in calling for an investigation of the Division of Purchases limited such investigation to the period subsequent to December 12, 1939, and

WHEREAS, said Committee by its report found that those in charge of the Division of Purchases had failed to comply with the mandatory provisions of the law in not adopting standards and specifications, and in not having competitive bidding for State purchases, and

WHEREAS, said Committee also found that the persons in charge of the Division of State Purchases were inefficient, had been negligent, and had shown favortism, and

WHEREAS, men of reasonable intelligence know that the basis of all fraud and corruption is a failure and refusal of public officials to comply with the law, and that coupled with inefficiency, negligence and favoritism a reasonable presumption must be indulged to the effect that in this particular matter the taxpayers' money has been wasted and has been used for improper purposes, and

WHEREAS, a sound public policy demands efficiency, honesty and integrity in public officials, and

WHEREAS, the present heads of the Division of Purchases are also in charge of an intrenched political organization, and

WHEREAS, it has been made manifest to the public and to this General Assembly that campaign funds running into thousands of dollars have been raised through this agency of government, and from those persons who have been the beneficiaries of the high prices paid for State purchases, resulting from the favoritsm and refusal to obey the law of those in charge of State purchases, and

WHEREAS, the same officials who were investigated by the Governor's Committee were and have been in charge of the Division of State Purchases since 1936, and

WHEREAS, it must be reasonably assumed that the illegal practices indulged in by these officials subsequent to December 12, 1939, were also practiced and indulged in prior thereto, and

WHEREAS, a sound public policy demands that all officials observe the law and that political campaigns not be financed out of public funds, and

WHEREAS, the citizens and taxpayers of this Commonwealth are entitled to know the truth, the whole truth and nothing but the truth with respect to the manner in which the division of Purchases has been operated, *Now Therefore,*

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky*:

That the General Assembly does hereby order and direct that there be a thorough and complete and impartial investigation of the Division of Purchases covering the period from and including 1936 up until December 12, 1939. This investigation shall be conducted by the Auditor of Public Accounts under the direction and supervision of the Attorney General. It shall be the duty of the Auditor of Public Accounts under

the direction and supervision of and in cooperation with the Attorney General to appoint such personnel, committees and experts in purchases, auditors and clerical help as may be necessary to carry on a fair, impartial and thorough investigation of the Division of Purchases, and to fix the salary and compensation of the persons so appointed.

No person so appointed to assist in said investigation shall have any interest, directly or indirectly, in any State business and shall be under no political or other obligation to anyone connected with the Division of Purchases.

(2) There is hereby appropriated out of the public Treasury and out of funds not heretofore otherwise appropriated the sum of $50,000.00, or so much thereof as may be necessary, which shall be expended by the State Auditor for the purposes hereinabove enumerated in paying for the investigation herein provided for.

(3) It shall be the duty of each and every State officer and employee having in his custody or under his control any public records to make same available to the State Auditor and those authorized and designated by him at all reasonable times for inspection and reference for the purpose of carrying out the investigation herein provided for.

(4) Upon the completion of the investigation herein provided for it shall be the duty of the State Auditor in conjunction with the Attorney General to publish their findings and make such report thereof to the Members of the General Assembly and the public generally as will show the true conditions existing in the Division of Purchases and the manner in which same has been operated since 1936.

If the investigation herein provided for discloses that public funds have been improperly expended or wasted by the officers and employees in charge of the Division of Purchases, it shall be the duty of the Attorney General to bring suit to recover for the Commonwealth any monies due the Commonwealth or lost by it on account of any mismanage-

ment, neglect of duty, or breach of the duties of any such officers or employees, or upon any breach of the obligation of the bond of any officer or employee.

H. Res. 80. A Joint Resolution authorizing Roy Allinder to sue the Commonwealth of Kentucky, and the Department of Highways, or either.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That Roy Allinder be and he is hereby empowered and authorized to file and prosecute appropriate actions against the Commonwealth of Kentucky and the Department of Highways, or either, in the Hopkins Circuit Court, for the purpose of determining the liability of the Commonwealth of Kentucky and the Department of Highways, or either, for alleged overflowing, injuring and damaging to his lands along U. S. Highway No. 41 in Hopkins County, in 1939 and 1941. The suit shall be for a sum not in excess of five hundred dollars. In the event any judgment in the action be recovered by the said Roy Allinder, or same be compromised or settled, the amount recovered or agreed upon shall be paid by the Department of Finance, by a warrant drawn on the State Treasurer, and paid out of the General Fund.

Either party to said suit may appeal from any judgment which may be entered therein, as in any other civil suit, and the case may be settled and adjusted with the consent and approval of the Attorney General of Kentucky, in the same way as any other civil case.

No statement in this resolution shall be considered by either the Court or jury as an admission of negligence upon the part of the Commonwealth and this resolution shall not be introduced as evidence, nor commented upon by counsel in argument to the jury.

Ordered that said bills and resolutions be printed and referred to the Committee on Rules.

Mr. Douglas Bolling moved that the House do now adjourn to meet again on tomorrow at eleven o'clock A. M.

Said motion was agreed to.

The yeas and nays being required thereon by Messrs. Bolling and Henry Ward, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | W. A. Lamkin | B. W. Porter |
| George P. Anderson | H. W. Linville | Kleber F. Price |
| Henry Arrowood | Harry K. Lowman | James E. Quill |
| Robert E. Beatty | Hugh D. Lyon | Dr. J. J. Rice |
| Douglas T. Bolling | H. McCartney | Carl Scheben |
| C. L. Clayton | Ed. Marcum | Leon J. Shaikun |
| Oris Cooper | C. C. May | Faust Y. Simpson |
| Guthrie F. Crowe | J. Milton Mefford | Clyde Smith |
| Dr. J. A. Duff | J. Lee Moore | J. Claude Stacy |
| Forest C. Easley | L. D. Moore | C. W. Taylor |
| T. P. Fitzpatrick | C. E. Montgomery | Roy L. Taylor |
| Joseph J. Grace | E. R. Morlidge | Rev. H. Tinsley |
| P. Bert Hall | C. Sid Nabb | John L. Trumbo |
| Joe Higgins | Coy Nevitt | S. J. Wagner |
| W. H. Hunt | Robert Nicholas | Harry Walters |
| John S. Juett | H. C. Patterson | —47 |

Those who voted in the negative were—

| | | |
|---|---|---|
| W. T. Beard | John D. Fields | Joe B. Jarboe, Jr. |
| H. M. Brock, Jr. | W. W. Freeman | Crow Jarvis |
| Gus A. Brooks | A. G. Hamilton, Jr. | William L. Jones |
| Sherman E. Carter | Fuller Harding | A. L. Love |
| T. Fowler Combs | E. R. Hilton | Norris McPherson |
| M. A. Cornett | Clyde S. Howard | Dr. Wm. C. Mann |
| John Henry Cox | Jerry F. Howell | Sam Milam |
| Pink G. Curd | Chas. O. Humston | D. J. Moore |

| | | |
|---|---|---|
| Paul Pelfrey | James D. Stacey | Erna E. Tyra |
| L. Allen Rhoads | R. C. Stephenson | C. R. Walden |
| Wade H. Riley | Thomas M. Swope | Henry Ward |
| Otto Smither | Egbert Taylor | H. L. Waterfield |

—36

And then the House adjourned.

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THURSDAY, FEBRUARY 26, 1942

The House was called to order by the Honorable Stanley S. Dickson, Speaker.

The House was opened with prayer by The Reverend Father O'Dwyer of the Roman Catholic church of Frankfort, Kentucky.

The roll was called and the following members answered to their name, viz.:

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Harry W. Ennis | H. W. Linville |
| George P. Anderson | John D. Fields | A. L. Love |
| Henry Arrowood | T. P. Fitzpatrick | William Lovett |
| Robert E. Barry | W. W. Freeman | Harry K. Lowman |
| W. T. Beard | Joseph J. Grace | Hugh D. Lyon |
| Robert E. Beatty | P. Bert Hall | H. McCartney |
| Rell Bevins | A. G. Hamilton, Jr. | Norris McPherson |
| Douglas T. Bolling | Fuller Harding | Dr. Wm. C. Mann |
| H. M. Brock, Jr. | Joe Higgins | Ed. Marcum |
| Gus A. Brooks | E. R. Hilton | C. C. May |
| Sherman E. Carter | Clyde S. Howard | J. Milton Mefford |
| T. Fowler Combs | Jerry F. Howell | D. J. Moore |
| Oris Cooper | Chas. O. Humston | J. Lee Moore |
| M. A. Cornett | W. H. Hunt | L. D. Moore |
| John Henry Cox | Joe B. Jarboe, Jr. | C. E. Montgomery |
| Guthrie F. Crowe | Crow Jarvis | F. E. Morancy |
| Pink G. Curd | William L. Jones | E. R. Morlidge |
| Dr. J. A. Duff | John S. Juett | C. Sid Nabb |
| Forest C. Easley | W. A. Lamkin | Coy Nevitt |

| | | |
|---|---|---|
| Robert Nicholas | Leon J. Shaikun | John L. Trumbo |
| H. C. Patterson | Faust Y. Simpson | Erna E. Tyra |
| Paul Pelfrey | Clyde Smith | J. Wood Vance |
| B. W. Porter | Otto Smither | S. J. Wagner |
| Kleber F. Price | Charles L. Spilman | C. R. Walden |
| James E. Quill | James D. Stacey | Harry Walters |
| L. Allen Rhoads | J. Claude Stacy | H. A. Ward |
| Dr. J. J. Rice | R. C. Stephenson | Henry Ward |
| Wade H. Riley | Thomas M. Swope | H. L. Waterfield |
| Dr. M. M. Robinson | C. W. Taylor | E. Reed Wilson |
| Byron H. Royster | Egbert Taylor | Stanley S. Dickson, |
| Dr. K. N. Salyer | Roy L. Taylor | Speaker |
| Carl Scheben | Rev. H. Tinsley | |

Mr. Scheben moved that the reading of the Journal of yesterday's proceedings be dispensed with.

Said motion was agreed to.

Mr. Curd moved that a bill entitled:

H. B. 376. An Act relating to coin operated mechanical musical devices.

Be taken from the hands of the Committee on Rules and advanced to a reading.

Said motion was agreed to.

The yeas and nays being required thereon by Messrs. Curd and Tyra, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | M. A. Cornett | A. G. Hamilton, Jr. |
| W. T. Beard | John Henry Cox | Fuller Harding |
| H. M. Brock, Jr. | Pink G. Curd | Joe Higgins |
| Gus A. Brooks | Dr. J. A. Duff | E. R. Hilton |
| Sherman E. Carter | Harry W. Ennis | Clyde S. Howard |
| T. Fowler Combs | John D. Fields | Jerry F. Howell |
| Oris Cooper | P. Bert Hall | Chas. O. Humston |

| | | |
|---|---|---|
| W. H. Hunt | E. R. Morlidge | Thomas M Swope |
| Joe B. Jarboe, Jr. | Coy Nevitt | C. W. Taylor |
| Crow Jarvis | H. C. Patterson | Egbert Taylor |
| William L. Jones | Paul Pelfrey | Rev. H. Tinsley |
| A. L. Love | B. W. Porter | John L. Trumbo |
| William Lovett | James E. Quill | Erna E. Tyra |
| H. McCartney | L. Allen Rhoads | J. Wood Vance |
| Dr. Wm. C. Mann | Wade H. Riley | S. J. Wagner |
| Ed. Marcum | Byron H. Royster | C. R. Walden |
| C. C. May | Dr. K. N. Salyer | H. A. Ward |
| D. J. Moore | Otto Smither | H. L. Waterfield |
| L. D. Moore | James D. Stacey | |
| F. E. Morancy | R. C. Stephenson | — 58 |

Those who voted in the negative were—

| | | |
|---|---|---|
| George P. Anderson | Hugh D. Lyon | Leon J. Shaikun |
| Henry Arrowood | Norris McPherson | Faust Y. Simpson |
| William F. Ball | J. Milton Mefford | Clyde Smith |
| Robert E. Beatty | J. Lee Moore | J. Claude Stacy |
| Rell Bevins | C. E. Montgomery | Roy L. Taylor |
| Douglas T. Bolling | C. Sid Nabb | Harry Walters |
| Joseph J. Grace | Robert Nicholas | Henry Ward |
| John S. Juett | Kleber F. Price | E. Reed Wilson |
| H. W. Linville | Dr. J. J. Rice | |
| Harry K. Lowman | Carl Scheben | —28 |

Mr. Vance moved that the vote by which said bill was taken from Rules Committee and ordered given first reading be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Thereupon said bill was read at length the first time and ordered to be placed on the Calendar.

Mr. Swope moved that the Sergeant-at-Arms be directed to locate all members of the Committee on Rules and escort them to the House chamber.

Said motion was agreed to.

A message was received from the Senate, announcing that they had passed bills which originated in that body, entitled:

S. Res. 52. A Joint Resolution appropriating from the General Fund of the Commonwealth of Kentucky, the sum of $48.00 to pay a claim for services rendered by W. P. Kuykendall in performance of his duties as agent of this Commonwealth for the return of a fugitive from justice.

Said resolution is as follows, viz.:

WHEREAS, W. P. Kuykendall, Sheriff of Webster County, Kentucky, was duly designated by the Governor of the Commonwealth as agent of the Commonwealth for the return of one Melvin Litchfield, a fugitive from justice, and

WHEREAS, the said W. P. Kuykendall traveled from Dixon, Kentucky, to Alton, Illinois, a distance of four hundred and eighty miles for the purpose of returning the said fugitive from justice, and in so doing incurred expenses in the sum of $48.00, no part of which has been reimburmsed to him, and

WHEREAS, the expenses so incurred were incurred on behalf of the Commonwealth and should be paid by the Commonwealth, now, therefore,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That there is appropriated out of the General Fund to W. P. Kuykendall, Sheriff of Webster County, Kentucky, the sum of $48.00, and the Department of Finance is directed to draw its warrant upon the Treasurer in favor of the said W. P. Kuykendall for that amount.

S. B. 134. An Act relating to larceny and providing punishment therefor.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Sections 1196 and 1201c of Carroll's Kentucky Statutes, be and the same are hereby repealed.

§ 2. That Section 1243 of Carroll's Kentucky Statutes be and the same is hereby repealed and reenacted to read as follows:

Any person who shall steal or be guilty of a larceny of money, goods, chattels or other property of less value than Twenty Dollars ($20.00) shall be punished by confinement in the county jail for a period of not less than one (1) nor more than twelve (12) months, or fined not less than Ten Dollars ($10.00) nor more than Two Hundred Dollars ($200.00) or either both so fined and imprisoned within the discretion of the court or jury.

§ 3. This Act shall be treated as repealing subsections (2), (3) and (4) of KRS 433.250, regardless of the date of enactment or taking effect of the Kentucky Revised Statutes.

§ 4. Section two of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in the place of KRS 433.230, and shall thereafter be treated as an amendment to 433.230.

S. B. 186. An Act authorizing the pledging of certain securities by depositories of public funds to secure such funds.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. In addition to and under the same conditions as the securities authorized by Section 4693 of Carroll's Kentucky Statutes, 1936 Edition to be pledged with the State Treasurer to secure deposits of public funds, there may be

pledged, when approved by the County Debt Commission for such purposes, bonds voted and issued by counties of the Commonwealth pursuant to Section 157a of the Constitution of Kentucky, and bonds issued to refund or to renew same. Only bonds of a county in which the levy of the tax authorized by Section 157a of the Constitution would have produced during the last fiscal year 5% more revenue than the amount required annually to meet all principal and interest maturities when due may be approved for such purpose by the County Debt Commission, and it may, in its sound discretion, refuse to approve any such bonds of any such county for such purpose if it is not convinced that the public funds of the Commonwealth will be adequately protected thereby. The County Debt Commission shall annually, on or about September 1, prepare a list of all such bonds that may be pledged with the State Treasurer to secure deposits of public funds, and the bonds included in such list shall continue to be eligible for such purpose until removed or until a new list is prepared. Such lists shall be public records, and shall be filed with the Secretary of State; and the State Treasurer shall distribute copies thereof to the state depositories. Bonds so approved for such pledge shall be identified as the said Commission shall direct, which identification shall include the name of the issuing county, the rate of interest which the bonds bear, and the date of issue. The County Debt Commission may at any time remove any bonds from said list by notice to all state depositories or by exclusion from the next annual list, in which latter event the list shall constitute notice; and any bond so removed shall not be accepted to secure state deposits thirty days after notice of removal from the approved list.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, the reference in section one of this Act to "section 4693 of Carroll's Kentucky Statutes, 1936 edition" shall be treated as a reference to "KRS 41.240."

§ 3. WHEREAS, because of the current financial stringency and the practically insurmountable difficulties now encountered by state depository banks in securing depository bonds, a flight of capital from the state, to the irreparable injury of agriculture and industry is imminent, an emergency is declared to exist and this bill shall take effect upon its passage and approval by the Governor.

S. B. 147. An Act relating to county judges.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 1072a of Carroll's Kentucky Statutes, 1936 edition, is amended to read as follows:

The regular county judge in every county is entitled to a vacation of two weeks in each year and in counties having a circuit court of continuous session the county judge is entitled to a vacation of one month in each year. During his vacation the compensation of the pro tem judge shall not be deducted from the salary of the regular judge. The salary of the pro tem judge shall be paid by the county in the same manner and at the same rate per diem as that of the regular judge.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 25.270, and shall thereafter be treated as an amendment to KRS 25.270 rather than an amendment to § 1072a of Carroll's Statutes.

S. B. 184. An Act relating to building and loan associations.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. (1) Whenever it appears that the capital stock of any building and loan association has been impaired, the Director of Banking shall notify such building and loan association and each director thereof to make such impairment good within thirty days and to restrict withdrawals and not to accept unpledged shares. The officers and directors shall immediately call a special meeting of the shareholders. The association may, with the consent of the Director of Banking, reduce its capital to the extent of the impairment, if such reduction will not place its capital below the amount required by law.

(2) If the association fails for thirty days after such notice to call a meeting of the shareholders to adopt a program to eliminate such impairment, the Director of Banking may, with the consent of the Attorney-General, institute necessary proceedings to wind up the affairs of the association. If the association fails to make the impaired capital stock good within ninety days after such notice, the Director of Banking may forthwith institute necessary proceedings to wind up the affairs of the association.

Section 2. The provisions of Sections 165a-16 and 165a-17 of Carroll's Kentucky Statutes shall apply to building and loan associations the same as they apply to banks and trust companies, and all powers vested in the Director of Banking as to banks and trust companies by those sections are vested in him as to building and loan associations.

Section 3. Sections 874g to 874k and 874p of Carroll's Kentucky Statutes, 1936 edition, are repealed.

Section 4. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, upon the taking effect of the Kentucky Revised Statutes, the numbers "subsections (1) to (3) of KRS 287.560 and KRS 287.570 to 287.610" shall be substituted for "Sections 165a-16 and 165a-17 of Carroll's Kentucky Statutes" in section two of this Act.

Section 5. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, this Act shall be treated as repealing KRS 289.430 to 289.470 and 289.520, regardless of the date of enactment or taking effect of the Kentucky Revised Statutes.

S. B. 58. An Act relating to holidays and providing for suspending the observance of all holidays, other than Independence Day, Labor Day, and Christmas, during the continuation of the present war, and declaring an emergency.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

1. The observance of all holidays other than Independence Day, Labor Day, and Christmas Day shall be suspended during the continuation of hostilities in the present war with Japan, Germany, Italy, and any other enemies of the United States who may become involved therein.

2. The observance of holidays now provided for by law shall be renewed after the cessation of such hostilities; and upon the apparent permanency of such cessation of hostilities, the Governor of the Commonwealth shall issue a proclamation so declaring; and thereupon the holidays now provided by law shall again be observed.

3. Because of the urgent necessity for the continuous application of everyone to the existing war effort of the United States, an emergency is declared to exist and this act shall take effect on and after its passage and approval by the Governor.

Ordered that said bills eand resolution be printed and referred

To Committee on Rules.

And that they had passed bills which originated in this House entitled:

H. B. 100. An Act relating to registration of voters.

H. B. 129. An Act relating to a transfer out of interest in the Unemployment Trust Fund.

Ordered that said bills be delivered to the Enrolling Clerk of this House.

And that they had passed bills which originated in this House, entitled:

H. B. 151. An Act pertaining to the use of police radios.

With an amendment thereto as proposed and adopted by the Senate.

H. B. 157. An Act relating to motor vehicles.

With amendments thereto as proposed and adopted by the Senate.

H. B. 211. An Act to create the office of assistant county attorneys etc.

With an amendment thereto as proposed and adopted by the Senate.

Ordered that said bills be laid on the Clerk's Desk.

Mr. Beard moved that the Rules of this House be suspended for the purpose of making a further motion to take a bill entitled:

H. B. 255. An Act repealing Kentucky Statutes by raising exemption from $1,000.00 to $2,000.00 for single persons and from $2,500.00 to $3,000.00 for head of house.

From the hands of the Committee on Rules and advanced to a reading.

Mr. Tyra moved that said motion be amended to include a suspension of the Rules for the purpose of making a further motion to take a bill entitled:

H. B. 266. An Act prescribing selling charges for leaf tobacco.

Mr. Henry Ward raised the point of order that the motion to amend as made by Mr. Tyra was not in order since no motion to suspend the Rules could include two subject matters.

The Speaker ruled that the point of order as raised by Mr. Henry Ward was well taken, and that the motion as made by Mr. Tyra was not in order.

Thereupon the motion as made by Mr. Beard was disagreed to having failed to receive the necessary majority under the rules of this House.

Mr. Henry Ward moved that the House do no recess for one hour.

Said motion was agreed to.

And then the House recessed.

One hour having expired, the Speaker resumed the Chair and called the House to order.

At the instance of the Committee on Rules, the House took for consideration from the Orders of the Day, a bill entitled:

H. B. 375. An Act to establish the boundary line between the State of Indiana and the Commonwealth of Kentucky by agreement; to provide that the line so established shall become the boundary line upon the enactment of a similar and reciprocal law by the State of Indiana and the ap-

proval and consent to the compact thereby effected by the Congress of the United States of America.

Said bill is as follows, viz.:

WHEREAS, by decree of the Supreme Court of the United States in the case of Indiana v. Kentucky, decided May 18, 1896, and reported in 163 Ind. U. S. R., the boundary line between the State of Indiana and the Commonwealth of Kentucky between certain terminal points therein described was fixed and established, and

WHEREAS, neither of said terminal points reached the low water mark of the right side of the Ohio River, forming the remainder of the boundary line between said States, and

WHEREAS, owing to the facts recited in the preceding literary paragraph hereof a dispute has arisen as to the boundary line connecting said terminal points with said low water mark, and

WHEREAS, the Governor of the State of Indiana and the Governor of the Commonwealth of Kentucky have appointed Commissioners to study said question for the purpose of ascertaining the true and legal boundary line thus in dispute, and

WHEREAS, said Commissioners have agreed upon the true and legal boundary line; *Now Therefore,*

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That on and after the enactment of a similar and reciprocal law by the State of Indiana and the approval and consent of the Congress of the United States of America to the compact thereby effected, the boundary line between the State of Indiana and the Commonwealth of Kentucky shall be as follows, that is to say:

Commencing at a point on the line between Sections 15 and 14, Township 7 South, Range 10 West, and 67.25 chains

South of the Northeast corner of Section 15, the same being the beginning point in the description of the part of the boundary line as fixed by the Supreme Court of the United States in Indiana v. Kentucky, decided May 18, 1896, and reported in 163 Ind. U. S. R.; thence south 0° 53′ 15″ West to the low water mark on the right side of the Ohio River and thence upstream at low water mark on the right side of said River. Also beginning at the same beginning point to wit: the beginning point in the description of the part of the boundary line between the State of Indiana and the Commonwealth of Kentucky as fixed by the Supreme Court in the cases above recited and following that line to the end of so much of said boundary line as was fixed by said decree; thence due West to the low water mark on the right side of the Ohio River and thence downstream with said low water mark on the right side of said River.

§ 2. Upon the enactment of a similar and reciprocal law by the State of Indiana, and the approval and consent of the Congress of the United States to the compact thereby effected, evidence thereof, together with the survey and report of the Commissioners by whom the boundary line was agreed upon, shall be filed in the office of the Secretary of State of Kentucky, and a copy thereof shall be filed in the office of the county court clerk of Henderson County, Kentucky.

Mr. Henry Ward offered the following amendments to said bill, viz.:

1. Amend H. B. 375 on page 2, section 1, line 11 by striking the words and letters "Ind. U. S. R." and substituting therefor the words and letters "U. S. Reports."

2. Amend H. B. 375 on page 1 second line of the first paragraph of the preamble by striking the words and letters "Ind. U. S. R." and substituting the words and letters "U. S. Reports."

3. Amend H. B. 375 on page 2, section 1, line 16 by striking the word "cases" and substituting therefor the word "case."

Said amendments were each agreed to.

Ordered that said bill be engrossed and read the third time.

The Constitutional provision as to the third reading of said bill at length having been dispensed with, and the same having been engrossed, said bill was read the third time by its title only, and passed.

The yeas and nays having been taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Harry W. Ennis | Hugh D. Lyon |
| George P. Anderson | John D. Fields | H. McCartney |
| Henry Arrowood | T. P. Fitzpatrick | Norris McPherson |
| William F. Ball | W. W. Freeman | Ed. Marcum |
| Robert E. Barry | P. Bert Hall | C. C. May |
| W. T. Beard | A. G. Hamilton, Jr. | J. Milton Mefford |
| Robert E. Beatty | Fuller Harding | D. J. Moore |
| Rell Bevins | E. R. Hilton | J. Lee Moore |
| Douglas T. Bolling | Clyde S. Howard | L. D. Moore |
| H. M. Brock, Jr. | Chas. O. Humston | C. E. Montgomery |
| Gus A. Brooks | W. H. Hunt | F. E. Morancy |
| Sherman E. Carter | Joe B. Jarboe, Jr. | E. R. Morlidge |
| T. Fowler Combs | Crow Jarvis | C. Sid Nabb |
| Oris Cooper | William L. Jones | Coy Nevitt |
| M. A. Cornett | John S. Juett | H. C. Patterson |
| John Henry Cox | W. A. Lamkin | Paul Pelfrey |
| Guthrie F. Crowe | H. W. Linville | B. W. Porter |
| Pink G. Curd | A. L. Love | Kleber F. Price |
| Dr. J. A. Duff | William Lovett | James E. Quill |
| Forest C. Easley | Harry K. Lowman | L. Allen Rhoads |

| | | |
|---|---|---|
| Dr. J. J. Rice | J. Claude Stacy | J. Wood Vance |
| Wade H. Riley | R. C. Stephenson | S. J. Wagner |
| Byron H. Royster | Thomas M. Swope | H. A. Ward |
| Carl Scheben | C. W. Taylor | Henry Ward |
| Leon J. Shaikun | Egbert Taylor | H. L. Waterfield |
| Otto Smither | Roy L. Taylor | E. Reed Wilson |
| Charles L. Spilman | Rev. H. Tinsley | |
| James D. Stacey | Erna E. Tyra | —82 |

There voted in the negative—

Faust Y. Simpson —1

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Beard of the Committee on Enrollment reported that they had examined and found to be correctly enrolled, bills of the following titles, viz.:

H. B. 100. An Act relating to registration of voters.

H. B. 129. An Act relating to a transfer out of interest the Unemployment Trust Fund.

H. B. 130. An Act to amend Sec. 4281g-14 Carroll's Kentucky Statutes, relating to gasoline tax.

H. B. 134. An Act providing for creation of public roads.

H. B. 57. An Act pertaining to covenants of county officers.

Thereupon all other business was suspended, said bills were read at length and compared in open session, and found

to be correctly enrolled and thereupon the Speaker, in open session and in the presence of the House, affixed his signature thereto.

Ordered that the Enrolling Clerk of this House deliver said bills to the Senate.

After a time the Enrolling Clerk aforesaid delivered the original and enrolled copies of said bills duly signed by the President of the Senate into the possession of the Chief Clerk of this House.

Ordered that the Chief Clerk deliver said bills to the Governor.

After a time the Chief Clerk aforesaid, reported that he had discharged that duty.

By order of the Speaker and without objection, today's session was extended indefinitely.

At the instance of the Committee on Rules, the House took up for consideration from the Clerk's desk, a bill entitled:

H. B. 206. An Act relating to education.

With amendments thereto as proposed and adopted by the Senate.

(For bill see House Journal of February 10.)

Said amendments as proposed and adopted by the Senate, are as follows, viz.:

1. Amend House Bill 206 in the Senate on page 1, section 1, lines 2 and 3 of the printed bill by striking out the word "superintendent" between the words "as" and "principal".

2. Amend House Bill 206 in the Senate on page 4, section 5, lines 12, 13, 14, 15 and 16 of the printed bill by striking the following words:

"A teacher employed as superintendent may be transferred to another position by a vote of four members of the board of education. Provided that said teacher may appeal to the State Board of Education whose decision shall be final."

3. Amend House Bill 206 in the Senate on page 8, section 13, line 19 of the printed bill by adding the following words following the word "employment":

"A superintendent of schools may be removed for cause by a vote of four members of a board of education. Written notice setting out the charges for removal shall be spread on the minutes of the board and given to the superintendent fifteen (15) days before action is taken on his removal."

4. Amend House Bill 206 in the Senate on page 2, section 3, line 22 of the printed bill by adding the following words following the word "board":

"Any teacher who has been or may be hereafter inducted into the armed forces of this country for service in the present war, shall at the expiration of such service be re-employed or re-instated in his or her former position, unless physically or mentally incapacitated. Any teacher desiring reinstatement in his or her former position shall file application for same with the board of education within a period of sixty (60) days immediately following discharge from the armed forces of the country. Vacancies created by military leaves shall be filled by teachers employed by the board of education under limited contracts only."

5. To House Bill No. 206. Strike out of Section 1 all of lines 1, 2, 3, 4 and 5 and in lieu thereof insert the following:

"The term 'teacher' as used in this Act shall not mean superintendent, principal, attendance officer, supervisor or assistant superintendent."

Said amendments were each and severally concurred in.

Said bill was then passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Chas. O. Humston | Paul Pelfrey |
| Henry Arrowood | W. H. Hunt | B. W. Porter |
| William F. Ball | John S. Juett | Kleber F. Price |
| Robert E. Barry | W. A. Lamkin | James E. Quill |
| W. T. Beard | H. W. Linville | Dr. J. J. Rice |
| Rell Bevins | A. L. Love | Wade H. Riley |
| Douglas T. Bolling | William Lovett | Byron H. Royster |
| H. M. Brock, Jr. | Harry K. Lowman | Carl Scheben |
| Gus A. Brooks | Hugh D. Lyon | Faust Y. Simpson |
| T. Fowler Combs | H. McCartney | Otto Smither |
| M. A. Cornett | Norris McPherson | Charles L. Spilman |
| John Henry Cox | Ed. Marcum | James D. Stacey |
| Guthrie F. Crowe | J. Milton Mefford | R. C. Stephenson |
| Dr. J. A. Duff | D. J. Moore | Thomas M. Swope |
| Forest C. Easley | J. Lee Moore | Rev. H. Tinsley |
| T. P. Fitzpatrick | C. E. Montgomery | S. J. Wagner |
| W. W. Freeman | F. E. Morancy | H. A. Ward |
| E. R. Hilton | E. R. Morlidge | Henry Ward |
| Clyde S. Howard | C. Sid Nabb | H. L. Waterfield |
| Jerry F. Howell | H. C. Patterson | E. Reed Wilson |

—60

Those who voted in the negative were—

| | | |
|---|---|---|
| Sherman E. Carter | A. G. Hamilton, Jr. | Egbert Taylor |
| Pink G. Curd | Joe B. Jarboe, Jr. | J. Wood Vance |
| Harry W. Ennis | Dr. Wm. C. Mann | C. R. Walden |
| John D. Fields | Coy Nevitt | |

—11

Mr. Henry Ward moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

At the instance of the Committee on Rules, the House took up for consideration from the Clerk's desk, a bill entitled:

H. B. 157. An Act relating to motor vehicles.

With amendments thereto as proposed and adopted by the Senate.

(For bill see House Journal of February 9.)

Said amendments as proposed and adopted by the Senate, are as follows, viz.:

1. Amend H. B. 157 on page 1 of the printed bill, Section 1, line 2 by striking therefrom the figures and word "1936 edition" and inserting in lieu thereof the following: "1938 Supplement".

2. Amend the title to House Bill No. 157 in line 4, by striking therefrom the colon after the word "edition" and adding thereto the following: "and subsection (a) of Section 2739g-1 of Carroll's Kentucky Statutes, 1938 Supplement."

3. Amend the title to H. B. 157 in line 2 by striking therefrom the last comma and inserting in lieu thereof the following word "and".

4. Amend the title of H. B. 157 in line 3 thereof by striking therefrom after the figures and letter "2739g-63" the following: ", and subsection (a) of section 2739g-1".

Said amendments were each and severally concurred in.

Said bill was then passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Chas. O. Humston | Paul Pelfrey |
| George P. Anderson | W. H. Hunt | Kleber F. Price |
| Henry Arrowood | Crow Jarvis | James E. Quill |
| William F. Ball | John S. Juett | L. Allen Rhoads |
| W. T. Beard | H. W. Linville | Dr. J. J. Rice |
| Rell Bevins | A. L. Love | Carl Scheben |
| Douglas T. Bolling | William Lovett | Leon J. Shaikun |
| H. M. Brock, Jr. | Harry K. Lowman | Otto Smither |
| Sherman E. Carter | Hugh D. Lyon | Charles L. Spilman |
| T. Fowler Combs | H. McCartney | James D. Stacey |
| M. A. Cornett | Norris McPherson | R. C. Stephenson |
| Pink G. Curd | Dr. Wm. C. Mann | C. W. Taylor |
| Dr. J. A. Duff | Ed. Marcum | Egbert Taylor |
| Forest C. Easley | C. C. May | Roy L. Taylor |
| Harry W. Ennis | D. J. Moore | Rev. H. Tinsley |
| T. P. Fitzpatrick | J. Lee Moore | S. J. Wagner |
| W. W. Freeman | C. E. Montgomery | C. R. Walden |
| Joseph J. Grace | F. E. Morancy | Henry Ward |
| Joe Higgins | E. R. Morlidge | E. Reed Wilson |
| E. R. Hilton | C. Sid Nabb | |
| Clyde S. Howard | Robert Nicholas | —61 |

Those who voted in the negative were—

| | | |
|---|---|---|
| Oris Cooper | Joe B. Jarboe, Jr. | |
| John Henry Cox | Byron H. Royster | —4 |

Resolved that the title thereof be as amended.

Mr. Henry Ward moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

Mr. Beard of the Committee on Enrollment reported that they had examined and found to be correctly enrolled, resolutions of the following titles, viz.:

H. Res. 40. Resolution authorizing Andy Roberts to sue the Commonwealth.

H. Res. 42. Resolution authorizing John D. Fitts, to sue the Commonwealth.

H. Res. 48. Resolution authorizing Frank McClain to sue the Commonwealth.

H. Res. 49. Resolution authorizing Bettie Anne Howell to sue the Commonwealth.

H. Res. 53. Resolution authorizing Mary Leachman to sue the Commonwealth.

H. Res. 26. Resolution authorizing Raymond Glasscock to sue the Commonwealth.

H. Res. 29. Resolution authorizing Roscoe Caudill to sue the Commonwealth.

Thereupon all other business was suspended, said resolutions were read at length and compared in open session and found to be correctly enrolled, and thereupon the Speaker, in open session and in the presence of the House, affixed his signature thereto.

Ordered that the Enrolling Clerk of this House deliver said resolutions to the Senate.

After a time the Enrolling Clerk aforesaid delivered the original and enrolled copies of said resolutions duly signed by the President of the Senate, into the possession of the Chief Clerk.

Ordered that the Chief Clerk deliver said resolutions to the Governor.

After a time the Chief Clerk aforesaid reported that he had discharged that duty.

At the instance of the Committee on Rules, the House took up for consideration from the Clerk's desk, a bill entitled:

H. B. 98. An Act relating to county patrols and county police forces, etc.

With amendments thereto as proposed and adopted by the Senate.

(For bill see House Journal of February 4.)

Said amendments as proposed and adopted by the Senate, are as follows, viz.:

Amendment No. 1. Amend H. B. No. 98 by striking out the sentence beginning in line 19 and ending on line 22, on page 2 of the printed bill, and inserting in lieu thereof the following:

"All of the members and employes of the county police force shall be appointed by the county judge and shall serve for a term of one year from the date of their respective appointments, unless sooner removed by the county judge for neglect of duty or improper conduct. All members of the force shall be citizens of the United States not less than twenty-one years of age, and shall have been bona fide residents of the county in which they are appointed for not less than one year before their appointment."

Amendment No. 2. Amend House Bill No. 98 in the Senate by adding after the word "force" in line 62, page 3 of the printed bill the following:

"Provided, however, that the above salaries shall only apply to counties having a population of seventy-two thousand or more inhabitants; that in counties having less than seventy-two thousand inhabitants and no more than twenty-

five thousand inhabitants the salary of no person appointed under this act shall exceed eighteen hundred dollars per annum, and in all other counties no person appointed under this act shall receive a salary in excess of twenty-five dollars per annum."

Amendment No. 3. Amend House Bill No. 98 by striking out the sentence beginning in line 62, and the sentence beginning in line 64, on page 3 of the printed bill.

Amendment No. 4. Amend House Bill No. 98 by inserting, following the sentence ending in line 86 on page 4 of the printed bill, the following:

"The county police force shall constitute a law enforcement agency in addition to the patrol and investigation functions of the sheriff and his deputies under sections 3786-1 to 3786-5 of Carroll's Statutes.'

Amendments Nos. 1, 3 and 4 were then concurred in.

Mr. Shaikun moved that the House refuse to concur in Amendment No. 3 as proposed by the Senate.

Said motion was agreed to, and

The House refused to concur in said amendment.

Ordered that the Chief Clerk report the action of the House to the Senate.

At the instance of the Committee on Rules, the House took up for consideration from the Clerk's desk a bill entitled:

H. B. 151. An Act pertaining to the use of police and radios, etc.

With amendment thereto as proposed and adopted by the Senate.

(For bill see House Journal of February 13.)

Said amendment as proposed and adopted by the Senate, is as follows, viz.:

Amend H. B. 151 by adding a new sentence after the period in line 18, page 2 of the printed bill, as follows:

"Provided, however, the provisions of this act shall not apply to any automobile or other vehicle owned or operated by any operating public utility company, and in the event a license is required, that same be secured from the Federal Communications Commission or other Federal agency having the authority to license same."

Said amendment was concurred in.

Said bill was then passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| George P. Anderson | A. G. Hamilton, Jr. | C. C. May |
| Henry Arrowood | Joe Higgins | J. Milton Mefford |
| William F. Ball | E. R. Hilton | D. J. Moore |
| W. T. Beard | Clyde S. Howard | J. Lee Moore |
| Robert E. Beatty | Chas. O. Humston | L. D. Moore |
| Rell Bevins | W. H. Hunt | C. E. Montgomery |
| H. M. Brock, Jr. | Joe B. Jarboe, Jr. | F. E. Morancy |
| Gus A. Brooks | Crow Jarvis | E. R. Morlidge |
| Sherman E. Carter | William L. Jones | C. Sid Nabb |
| T. Fowler Combs | John S. Juett | Coy Nevitt |
| Oris Cooper | W. A. Lamkin | Robert Nicholas |
| M. A. Cornett | H. W. Linville | Paul Pelfrey |
| John Henry Cox | A. L. Love | B. W. Porter |
| Pink G. Curd | William Lovett | Kleber F. Price |
| Dr. J. A. Duff | Hugh D. Lyon | James E. Quill |
| Forest C. Easley | H. McCartney | L. Allen Rhoads |
| T. P. Fitzpatrick | Norris McPherson | Dr. J. J. Rice |
| Joseph J. Grace | Dr. Wm. C. Mann | Wade H. Riley |
| P. Bert Hall | Ed. Marcum | Byron H. Royster |

| | | |
|---|---|---|
| Carl Scheben | R. C. Stephenson | J. Wood Vance |
| Leon J. Shaikun | Thomas M. Swope | S. J. Wagner |
| Faust Y. Simpson | C. W. Taylor | C. R. Walden |
| Otto Smither | Egbert Taylor | Harry Walters |
| Charles L. Spilman | Roy L. Taylor | H. A. Ward |
| James D. Stacey | Rev. H. Tinsley | Henry Ward |
| J. Claude Stacy | Erna E. Tyra | E. Reed Wilson |

—78

There voted in the negative—

Jerry F. Howell —1

Mr. Henry Ward moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

At the instance of the Committee on Rules, the House took up for consideration from the Clerk's desk, a bill entitled:

H. B. 211. An Act to create the office of assistant county attorney in counties having a population of less than one hundred and fifty thousand.

With an amendment thereto as proposed and adopted by the Senate.

(For bill see House Journal of February 13.)

Said amendment as proposed and adopted by the Senate, is as follows, viz.:

Amend H. B. 211 by striking from line 8 on page 2 the period and inserting thereafter the words:

"But in no event shall the total amount of salaries, fees and commissions paid the county attorney and his assistant

county attorney acting under the provisions hereof exceed the sum of $5,000.00 in any one year.''

Said amendment was concurred in.

Said bill was then passed, as amended.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| George P. Anderson | W. H. Hunt | B. W. Porter |
| Henry Arrowood | Joe B. Jarboe, Jr. | Kleber F. Price |
| William F. Ball | John S. Juett | James E. Quill |
| W. T. Beard | W. A. Lamkin | Dr. J. J. Rice |
| Robert E. Beatty | A. L. Love | Wade H. Riley |
| H. M. Brock, Jr. | William Lovett | Byron H. Royster |
| T. Fowler Combs | Hugh D. Lyon | Carl Scheben |
| Oris Cooper | H. McCartney | Leon J. Shaikun |
| M. A. Cornett | Norris McPherson | Charles L. Spilman |
| John Henry Cox | Dr. Wm. C. Mann | James D. Stacey |
| Pink G. Curd | Ed. Marcum | R. C. Stephenson |
| Dr. J. A. Duff | C. C. May | Thomas M. Swope |
| Forest C. Easley | J. Milton Mefford | C. W. Taylor |
| Harry W. Ennis | D. J. Moore | Egbert Taylor |
| John D. Fields | J. Lee Moore | Roy L. Taylor |
| T. P. Fitzpatrick | L. D. Moore | Rev. H. Tinsley |
| P. Bert Hall | C. E. Montgomery | S. J. Wagner |
| Fuller Harding | F. E. Morancy | C. R. Walden |
| Joe Higgins | C. Sid Nabb | H. A. Ward |
| E. R. Hilton | Coy Nevitt | Henry Ward |
| Clyde S. Howard | Robert Nicholas | E. Reed Wilson |
| Jerry F. Howell | Paul Pelfrey | —65 |

There voted in the negative—

Sherman E. Carter —1

Mr. Henry Ward moved that the vote by which said bill was passed, as amended, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Ordered that said bill be delivered to the Enrolling Clerk of this House.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

H. B. 324. An Act to amend Sec. 98a-2 of the 1936 Edition of Carroll's Kentucky Statutes.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That section 98a-2 of the 1936 Edition of Carroll's Kentucky Statutes is amended so as to read as follows:

(1) The Court of Appeals of Kentucky shall make such rules and regulations as it deems proper fixing the moral qualifications of applicants and standard of acquirements, academic, legal and official service to entitle them to admission to practice law in the courts of this Commonwealth.

(2) No applicant shall be under the age of twenty-one years, except that the Court of Appeals may, in its discretion, during the present National Emergency admit persons to practice law in the courts of this Commonwealth who are under the age of twenty-one years if such persons are within the age limits of the Selective Service Act and if such persons have met all the other requirements necessary for such admission.

§ 2. If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of subsection (1) and (2) of KRS 30.030, and thereafter be treated as an amendment to subsections (1) and (2) of KRS 30.030 rather than an amendment to § 98a-2 of Carroll's Statutes.

§ 3. Whereas, many young men are now being called to service in the Army and Navy and whereas, many attorneys of this Commonwealth are now or will be in service in the Army and Navy, an emergency is hereby declared to exist and this Act shall become effective immediately upon its passage and approval by the Governor.

Mr. Brock moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | M. A. Cornett | Clyde S. Howard |
| George P. Anderson | John Henry Cox | Jerry F. Howell |
| Henry Arrowood | Pink G. Curd | Chas. O. Humston |
| William F. Ball | Dr. J. A. Duff | W. H. Hunt |
| Robert E. Barry | Forest C. Easley | Joe B. Jarboe, Jr. |
| W. T. Beard | Harry W. Ennis | Crow Jarvis |
| Robert E. Beatty | John D. Fields | William L. Jones |
| Rell Bevins | T. P. Fitzpatrick | John S. Juett |
| Douglas T. Bolling | W. W. Freeman | W. A. Lamkin |
| H. M. Brock, Jr. | P. Bert Hall | H. W. Linville |
| Gus A. Brooks | A. G. Hamilton, Jr. | A. L. Love |
| Sherman E. Carter | Fuller Harding | William Lovett |
| T. Fowler Combs | Joe Higgins | Hugh D. Lyon |
| Oris Cooper | E. R. Hilton | H. McCartney |

| | | |
|---|---|---|
| Dr. Wm. C. Mann | Paul Pelfrey | R. C. Stephenson |
| Ed. Marcum | B. W. Porter | Thomas M. Swope |
| C. C. May | Kleber F. Price | C. W. Taylor |
| J. Milton Mefford | James E. Quill | Roy L. Taylor |
| D. J. Moore | L. Allen Rhoads | Egbert Taylor |
| J. Lee Moore | Dr. J. J. Rice | Rev. H. Tinsley |
| L. D. Moore | Wade H. Riley | Erna E. Tyra |
| C. E. Montgomery | Byron H. Royster | J. Wood Vance |
| F. E. Morancy | Carl Scheben | S. J. Wagner |
| E. R. Morlidge | Leon J. Shaikun | C. R. Walden |
| C. Sid Nabb | Faust Y. Simpson | H. A. Ward |
| Coy Nevitt | Otto Smither | Henry Ward |
| Robert Nicholas | Charles L. Spilman | H. L. Waterfield |
| H. C. Patterson | James D. Stacey | E. Reed Wilson |

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Resolved that the title thereof be as aforesaid.

Mr. Brock moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The House took up for consideration from the Calendar, bills and resolutions of the following titles, viz.:

H. Res. 33. Resolution authorizing E. M. Addington to sue the Commonwealth.

H. Res. 50. Resolution authorizing Alex Blackburn to sue the Commonwealth.

H. Res. 60. Resolution authorizing Charlie Cobb to sue the Commonwealth.

H. Res. 61. Resolution authorizing Gus A. Brooks to sue the Commonwealth.

H. Res. 62. Resolution appropriating $69.02 to pay claim to W. O. Mitchell.

H. Res. 63. Resolution for the benefit of Doyle Hogg, ex-sheriff of Letcher County.

H. Res. 65. Resolution authorizing Mattie Combat and others to sue the Commonwealth.

H. Res. 67. Resolution requiring Commissioner of Highways to make report.

H. Res. 69. Resolution authorizing Ballard Tucker to sue the Commonwealth.

H. Res. 70. Resolution authorizing administrator for Earl Edwards to sue the Commonwealth.

H. Res. 71. Resolution authorizing C. D. Cheatham to sue the Commonwealth.

S. B. 116. An Act providing for regulation of real estate boards.

S. B. 153. An Act to amend Kentucky Statutes relating to malt beverages.

Ordered that said bills be read the second time.

The Constitutional provision as to the second reading of said bills at length having been dispensed with, said bills were read the second time by their titles only.

Ordered that said bills be placed in the Orders of the Day.

At the instance of the Committee on Rules, the following bill was introduced, viz.:

By Mr. Shaikun.

H. B. 390. An Act to repeal, amend and re-enanct Sections 883i-11, 883i-14, 883i-16 of Carroll's Kentucky Statutes, 1936 Edition, relating to interest rates and other charges

allowed to be made and charged by petty loan companies, and regulating other practices and procedure.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

*SECTION I.* That Section 883i-11 of Carroll's Kentucky Statutes, 1936 Edition, is hereby amended by addition and re-enacted so that when amended shall read as follows:

(1) 883i-11. Revocation or suspension of license.—The Commissioner shall, upon ten days' written notice to the licensee stating that he contemplates the revocation of his license, and, in general, the grounds therefor, revoke such license, after reasonable opportunity has been afforded to the licensee to be heard, if the Commissioner finds (1) that the licensee has failed to pay his annual license fee or to maintain in effect the bond or bonds required under this Act, or (2) that the licensee has violated any provision of this Act or has failed to comply with any rule or regulation lawfully made pursuant thereto, or (3) that any fact or condition then exists which clearly would warrant the Commissioner in refusing to issue a license on an original application. The Commissioner may, without notice or hearing, suspend any license for a period not exceeding thirty days, pending investigation. The Commissioner shall have authority to reinstate suspended licenses or to issue new licenses to a licensee whose license or licenses shall have been revoked if no fact or condition then exists which clearly would have warranted the Commissioner in refusing originally to issue such license under this Act. Any licensee may surrender any license by delivering to the Commissioner written notice that he thereby surrenders such license.

(2) Whenever the Commissioner shall revoke a license for violation of this Act and of the rules and regulations issued thereunder, pursuant to the authority granted in Paragraph

One (1) of this section, no more than six (6%) per centum per annum may be charged and collected on all outstanding individual Borrowers' Accounts.

(3) Whenever the Commissioner shall revoke a license for violation of this Act and of the rules and regulations issued thereunder, pursuant to the authority granted in Paragraph One (1) of this section, it shall be the duty of the Commissioner and he is hereby authorized to take charge of the property, records, and assets and liquidate the same as provided for in the liquidation of insolvent banks in Section 165a-17 Carroll's Kentucky Statutes, 1936 Edition.

*SECTON II.* That Section 883i-14 of Carroll's Kentucky Statutes, 1936 Edition, is hereby repealed, amended and re-enacted so that when amended and re-enacted shall read as follows:

883i-14. Interest rate; dividing of load forbidden.—

(1) Every licensee hereunder may lend any sum of money not exceeding three hundred dollars ($300.00) in amount and may charge, contract for, and receive thereon interest at a rate not exceeding one and one-half per centum (1½%) per month on any part of the unpaid principal balance of the loan not in excess of one hundred and fifty dollars ($150.00) and one per centum per month on any remainder of the unpaid principal balance of the loan.

(2) No amount whatsoever shall be paid, deducted, or received in advance. Interest shall not be compounded and shall be computed only on unpaid principal balances. The maximum interest permitted on loans made under this Act shall be computed on the basis of the number of days actually elapsed and for the purpose of such computations a month shall be any period of thirty consecutive days. In addition to the interest herein provided for no further or other charge or amount whatsoever for any examination, service, brokerage, commission, expense, fee, or bonus or other thing or otherwise shall be directly or indirectly charged, contracted

for or received, except however, the lawful fees, if any, actually and necessarily paid out by the licensee to any public official for filing or recording in any public office any instrument securing the loan.

(3) No person who is a licensee under this Act shall induce or permit any borrower or borrowers to split up or divide any loan or loans, nor permit any one borrower or any husband or wife individually or together to become indebted to him under mone than one contract or loan at the same time if the actual amount of the indebtedness on any one of such contracts is in the amount or of the value of three hundred dollars ($300.00) or less and there is charged, contracted for, or received thereon, directly or indirectly, by any device, subterfuge, or pretense whatsover, any interest, or consideration therefor greater than six per centum (6%) per annum. No loan or interest charges thereon permitted under this Act shall be made or charged for a period exceeding eighteen (18) months.

*SECTION III.* That Section 883i-16 of Carroll's Kentucky Statutes, 1936 Edition, is hereby amended by addition and re-enacted so that when amended shall read as follows:

883i-16. Duties of loaner.

(1) Every licensee shall:

(a) Deliver to the borrower at the time of making a loan under this Act a statement in English containing a copy of the provisions of subdivisions (a) and (b) of this Section and showing in clear and distinct terms the amount and date of the loan and the date of its maturity, the nature of the security, if any, for the loan, the name and address of the borrower and of the licensee, and the agreed rate of interest on such loan;

(b) Give to the borrower a plain and complete receipt for each payment made on account of any such loan at the time such payment is made, specifying the amount applied to

interest and the amount, if any, applied to principal, and stating the amount of the unpaid principal balance of the loan;

(c) Upon the repayment of the loan in full, mark indelibly with word "Paid" or "Canceled" every obligation and securtiy signed by the borrower and release any mortgage, restore any pledge, and cancel and return every note and assignment given to the licensee by the borrower.

(d) All incorporated licensees hereunder shall keep at the principal office and place of business within the Commonwealth of Kentucky, its minute book, stockholders register and certificate book, complete financial records of its operations and condition, including records of money borrowed and employed in its operations and shall maintain a true and exact record of the cost thereof.

(2) No licensee hereunder is permitted to engage in the sale of insurance to individual borrowers.

*SECTION 4.* If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substitutied in place of KRS 288.110, and shall thereafter be treated as an amendment to KRS 288.110 rather than an amendment to § 883i-11 of Carroll's Statutes, and the number "KRS 287.570 to 287.610" shall be substituted for "Section 165a-17 of Carroll's Kentucky Statutes, 1936 Edition" in section one of this Act.

*SECTION 5.* If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section two of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of subsections (1) to (3) of KRS 288.150, and thereafter be treated as an amendment to subsections (1) to (3) of KRS 288.150 rather than an amendment to § 883i-14 of Carroll's Statutes.

*SECTION 6.* If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, section

three of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 288.190, and thereafter be treated as an amendment to KRS 288.190 rather than an amendment to § 883i-16 of Carroll's Statutes.

*SECTION 7.* If the Kentucky Revised Statutes are enacted at the present session of the General Assembly, the words "director of banking" shall be substituted for the word "commissioner" wherever it appears in this Act.

Ordered that said bill be printed and referred

To the Committee on Rules.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

S. B. 85. An Act relating to commissioners of the Court of Appeals and amending Section 962b-1 of Carroll's Kentucky Statutes, 1936 Edition.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 962b-1 of Carroll's Kentucky Statutes, 1936 Edition is hereby amended and re-enacted to read as follows:

The judges of the Court of Appeals, a majority of them concurring, are hereby authorized to appoint four commissioners, who shall hold office at the pleasure of the court and who shall discharge such duties as may be assigned to them by the court. Every commissioner so appointed must have the qualifications prescribed by law for a judge of the Court of Appeals and as herein prescribed. Each commissioner shall receive the same salary, to be paid at the same time, and in the same manner, as a judge of the Court of Appeals, and shall also be allowed for clerical assistance the same amount

which is allowed by law to a judge of the Court of Appeals. Each commissioner shall be provided with an office in the Capitol at Frankfort, and the same shall be furnished in a way suitable for his duties by the Division of Purchases and Public Properties, and the expenses therefor shall be paid by a warrant to be drawn by the Department of Finance upon the State Treasurer. When the business of the court does not require their services the court shall terminate the appointment of any or all of the commissioners.

In addition to the four commissioners herein provided for, the judges of the Court of Appeals are hereby authorized to, and may in their discretion, appoint as additional commissioners such judges of the Court of Appeals as may hereafter retire from office etither voluntarily or because of the expiration of their terms and who have served continuously more than eight years as a member of said Court, upon the same terms and conditions of tenure and appointment and with the same salaries and privileges as are applicable to other commissioners, and they shall perform such duties and render such services as may be required by the court. They shall also be eligible for appointment by the Governor under Section 117 of the Constitution as special judges of the Court of Appeals, and when so appointed shall serve without additional compensation.

§ 2. If the Kentucky Revised Statutes are enacted at the present sessoin of the General Assembly, section one of this Act shall, upon the taking effect of the Kentucky Revised Statutes, be substituted in place of KRS 21.150, and shall thereafter be treated as an amendment to KRS 21.150 rather than an amendment to § 962b-1 of Carroll's Statutes.

Mr. Henry Ward moved the Previous Question.

Thereupon the Speaker announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Mr. Vance moved that the Rules of this House be suspended as they relate to the Previous Question and that thirty minutes be allotted to the proponents and the opponents of the bill.

Said motion was agreed to.

Ordered that thirty minutes be allotted to those who wish to speak in favor of the bill and thirty minutes be allotted to those who wish to speak in opposition.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Crow Jarvis | Kleber F. Price |
| Henry Arrowood | William L. Jones | James E. Quill |
| William F. Ball | H. W. Linville | L. Allen Rhoads |
| Robert E. Barry | William Lovett | Dr. K. N. Salyer |
| Rell Bevins | Hugh D. Lyon | Carl Scheben |
| Douglas T. Bolling | H. McCartney | Leon J. Shaikun |
| H. M. Brock, Jr. | Norris McPherson | Faust Y. Simpson |
| Gus A. Brooks | Ed. Marcum | Charles L. Spilman |
| T. Fowler Combs | J. Milton Mefford | J. Claude Stacy |
| M. A. Cornett | D. J. Moore | R. C. Stephenson |
| Guthrie F. Crowe | J. Lee Moore | C. W. Taylor |
| Pink G. Curd | L. D. Moore | Egbert Taylor |
| Forest C. Easley | C. E. Montgomery | Roy L. Taylor |
| Harry W. Ennis | E. R. Morlidge | Rev. H. Tinsley |
| W. W. Freeman | C. Sid Nabb | Harry Walters |
| A. G. Hamilton, Jr. | Coy Nevitt | Henry Ward |
| Joe Higgins | Robert Nicholas | E. Reed Wilson |
| W. H. Hunt | B. W. Porter | —53 |

| | | |
|---|---|---|
| George P. Anderson | Chas. O. Humston | Byron H. Royster |
| Robert E. Beatty | Joe B. Jarboe, Jr. | Thomas M. Swope |
| Sherman E. Carter | W. A. Lamkin | Erna E. Tyra |
| Oris Cooper | Harry K. Lowman | J. Wood Vance |
| John Henry Cox | Dr. Wm. C. Mann | S. J. Wagner |
| John D. Fields | F. E. Morancy | C. R. Walden |
| T. P. Fitzpatrick | H. C. Patterson | H. A. Ward |
| Joseph J. Grace | Paul Pelfrey | H. L. Waterfield |
| Fuller Harding | Dr. J. J. Rice | |
| Jerry F. Howell | Wade H. Riley | —28 |

Resolved that the title thereof be as aforesaid.

Mr. Henry Ward moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

At the instance of the Committee on Rules, the House took up for consideration from the Orders of the Day, a bill entitled:

S. B. 88. An Act requiring instruction in the public schools and colleges as to the effect of alcoholic liquors and narcotics upon the human system.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

The nature of alcoholic liquor and of narcotics and their injurious effects on the human system shall be taught in each of the grades, four to ten inclusive, of the common schools. It shall be the duty of the superintendent and principal of every school and the president of every university, college or academy to have presented for a period of 30 minutes to the entire student body in assembly, at least on two occasions each term or semester by an appropriate program, the scien-

tific, social and moral aspects of alcoholic beverages, stimulants and narcotics.

The failure of any superintendent, principal or teacher to comply with the terms of this act shall be deemed a cause for the revocation of his contract of employment, and upon notice to the Board of Education employing such superintendent, principal or teacher that he has failed to do so it shall be the duty of said Board to conduct a hearing and if the charge be proved to dismiss or discharge said superintendent, principal or teacher.

When text books on physiology and hygiene shall be hereafter adopted or approved for the schools, such books shall contain a substantial text, to be approved by the Superintendent of Public Instruction, devoted to the nature of alcoholic liquors and narcotics and their effect upon the human system.

All laws and parts of laws in conflict herewith are hereby repealed.

Ordered that said bill be read the third time.

The Constitutional provision as to the third reading of said bill at length, being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

| | | |
|---|---|---|
| C. W. Anderson, Jr. | Sherman E. Carter | John D. Fields |
| George P. Anderson | T. Fowler Combs | P. Bert Hall |
| Henry Arrowood | Oris Cooper | Fuller Harding |
| W. T. Beard | John Henry Cox | Clyde S. Howard |
| Robert E. Beatty | Guthrie F. Crowe | Chas. O. Humston |
| Rell Bevins | Pink G. Curd | W. H. Hunt |
| Douglas T. Bolling | Dr. J. A. Duff | Crow Jarvis |
| H. M. Brock, Jr. | Forest C. Easley | William L. Jones |
| Gus A. Brooks | Harry W. Ennis | John S. Juett |

| | | |
|---|---|---|
| W. A. Lamkin | L. D. Moore | R. C. Stephenson |
| H. W. Linville | C. E. Montgomery | Thomas M. Swope |
| A. L. Love | C. Sid Nabb | C. W. Taylor |
| Hugh D. Lyon | Coy Nevitt | Egbert Taylor |
| H. McCartney | H. C. Patterson | Rev. H. Tinsley |
| Norris McPherson | Paul Pelfrey | J. Wood Vance |
| Dr. Wm. C. Mann | B. W. Porter | C. R. Walden |
| C. C. May | Kleber F. Price | Harry Walters |
| J. Milton Mefford | Dr. J. J. Rice | Henry Ward |
| D. J. Moore | Wade H. Riley | E. Reed Wilson |
| J. Lee Moore | James D. Stacey | —59 |

Those who voted in the negative were—

Byron H. Royster Carl Scheben

—2

Resolved that the title thereof be as aforesaid.

Mr. L. D. Moore moved that the vote by which said bill was passed, be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Mr. Henry Ward of the Committee on Rules, to which the same had been referred, reported bills and resolutions entitled:

H. B. 272. An Act to amend, revise, consolidate and reenact Kentucky Statutes, relating to exemption of personal property.

H. Res. 80. Resolution authorizing Ray Allinder to sue the Commonwealth.

S. Res. 43. Resolution approving expenditure of $160,000 by Department of Highways.

S. B. 15. An Act relating to crimes and punishment.

S. B. 47. An Act relating to State Board of Education.

S. B. 56. An Act relating to chattel mortgages.

S. B. 57. An Act relating to elections.

S. B. 59. An Act relating to jails and jailers.

S. B. 68. An Act relating to payment and collection of taxes in cities of second class.

S. B. 76. An Act relating to hospitals and clinics.

S. B. 101. An Act authorizing cities of fourth class and fifth class to provide accident insurance for volunteer firemen.

S. B. 113. An Act relating to education.

S. B. 120. An Act relating to liability for damages to property caused by blasting.

S. B. 121. An Act relating to limitation of actions.

S. B. 124. An Act relating to depositions upon interrogatories.

S. B. 126. An Act relating to manner of charging an offense in an indictment.

S. B. 128. An Act relating to the inadmissibility of confessions obtained by sweating.

S. B. 130. An Act relating to reports made by the Auditor of Public Accounts.

S. B. 146. An Act relating to elections.

S. B. 150. An Act relating to corrupt practice in primaries and general elections.

S. B. 154. An Act to amend Sec. 3715 Carroll's Kentucky Statutes, 1936 Edition.

S. B. 155. An Act to amend section 3662a-3 of Carroll's Kentucky Statutes.

S. B. 168. An Act relating to pleading and practice in civil actions.

S. B. 169. An Act to amend and reenact Sec. 2739m-69 of Carroll's Kentucky Statutes.

S. B. 173. An Act relating to duties of Registrar of Vital Statistics.

S. B. 174. An Act providing for Special Committee to receive funds from public agencies.

S. B. 58. An Act relating to holidays and providing for suspending the observance of all holidays.

S. B. 134. An Act relating to larceny and providing punishment therefor.

S. B. 147. An Act relating to county judges.

S. B. 184. An Act relating to building and loan associations.

S. B. 186. An Act authorizing the pledging of certain securities by depositories.

S. B. 161. An Act relating to the powers of administration offices, etc.

With the expression of opinion that said bills and resolutions ought to pass.

Said bills and resolutions were each and severally read at length the first time and ordered to be placed on the Calendar.

Mr. Swope moved that the House do now adjourn to meet again on tomorrow at eleven o'clock A. M.

Said motion was agreed to.

And then the House adjourned.